SAN FRANCISCO PUBLIC LIBRARY
3 1223 06155 9523

5 CLOSED STACKS



GOVERNMENT INFORMATION CENTER
SAN FRANCISCO PUBLIC LIBRARY

SAN FRANCISCO
PUBLIC LIBRARY

REFERENCE
BOOK

Not to be taken from the Library

SEP 17 2001

3 1223 06155 9523

L500
R9
1988
no.6

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

Legislature

DOCUMENTS DEPT.

MAR 1 1988

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 10, 1988
2:05 P.M.

Additional copies of this publication may be purchased for $5.00 per copy from:

Joint Publications
State Capitol, Box 942849
Sacramento, CA 94249-0001

Please add 6 percent sales tax. Make checks payable to STATE OF CALIFORNIA.

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 10, 1988

2:05 P.M.

Reported by:

Evelyn Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM ELLIS

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

CHRISTINE BENDER, Commissioner of Corporations

SENATOR ART TORRES

RUDOLPH A. CASTRO, Member
Board of Prison Terms

SENATOR ROSE ANN VUICH

JOHN B. OHANIAN, Member
Public Utilities Commission

SENATOR HERSCHEL ROSENTHAL

SENATOR WADIE DEDDEH

KENNETH WILSON, Legal Advisor
Public Utilities Commission

GERALD O'HARA, Director
California Teamsters
Public Affairs Council

SYLVIA M. SIEGEL, Executive Director
Toward Utility Rate Normalization (T.U.R.N.)

I N D E X

	Page
Proceedings	1
Governor's Appointees:	1
CHRISTINE W. BENDER, Commissioner of Corporations	1
Question by CHAIRMAN ROBERTI re:	
Reduced Number of Consumer Complaints	3
Motion	3
Committee Action	4
RUDOLPH A. CASTRO, Member Board of Prison Terms	4
Introduction by SENATOR ART TORRES	4
Motion	5
Committee Action	6
JOHN B. OHANIAN, Member Public Utilities Commission	6
Introduction by SENATOR ROSE ANN VUICH	6
Qualifications Statement by MR. OHANIAN	7
Questions by SENATOR ROSENTHAL re:	
San Diego Gas & Electric Rate Case	14
Background on Energy Issues	15
Preparation for Rate Case	16
Relationship between Commissioners and Utilities	17
Superbowl Ticket Offers	17
Objection by SENATOR CRAVEN	17
Statement by SENATOR ELLIS	18
Statement by SENATOR CRAVEN re:	
Commissioner Duda	19
Response by MR. OHANIAN	20

I N D E X (Continued)

	Page
Statement in Support by SENATOR DEDDEH	20
Questions by SENATOR ROSENTHAL re:	
Trucking Regulations	22
Role of PUC in Trucking Safety	24
Legislature's Role in Trucking Rates	25
Diablo Canyon	26
Discussion re: Ex Parte Order	27
Response by MR. OHANIAN	28
Views on Mirror Image Allegation	29
Response by MR. WILSON, Legal Counsel	29
Interstate Gase Pipeline	30
Closing Statement by SENATOR ROSENTHAL	31
Question by CHAIRMAN ROBERTI re:	
Failure of SoCal Gas to Meet Storage Requirements	33
Trend Toward Deregulation	34
Questions by SENATOR PETRIS re:	
Purpose of Regulating Agencies	35
Storage Requirement for SoCal Gas	36
Treatment of Elderly in Energy	38
Witness in Support:	
GERALD O'HARA, Director California Teamsters Public Affairs Council	40
Witness with Observations:	
SYLVIA M. SIEGEL, Executive Director Toward Utility Rate Normalization	40
Question by SENATOR PETRIS re:	
Rationale for Customer Price Disparity	41
Failure to Invoke Profit Cap	42

I N D E X (Continued)

	Page
Importance of Baseline Law	44
Deregulation of Local Telephone Services	45
Questions by SENATOR PETRIS re:	
Protest Filing on Inside Wiring	47
Impact of Deregulation of Natural Gas	48
Motion	49
Committee Action	49
Termination of Proceedings	49
Certificate of Reporter	50

P R O C E E D I N G S

--oo0oo--

CHAIRMAN ROBERTI: We now have Governor's Appointees to be heard today: Ms. Christine Bender, Commissioner of Corporations.

Ms. Bender, we'll ask you what we ask all the Governor's Appointees, and that is why you feel you're qualified to assume this position.

MS. BENDER: Mr. Chairman and Members of the Committee, good afternoon. My name is Christine Bender.

As you know, I have served as Commissioner of Corporations since April 2, 1987. I believe my education and professional experience have provided me with an excellent background to the duties of Commissioner of Corporations, and I think I am well qualified to continue in that position.

I am an attorney and spent eight years in private practice specializing in corporate and securities law matters before coming to the Department in 1983. Since approximately two-thirds of the Department's work is securities related, and since much of the rest of it of a highly technical nature, I have found my experience and background in private practice to be extremely helpful.

In addition, I served as Chief Deputy Commissioner of Corporations for three and a half years, from August, 1983 until April, 1987. During that time I gained a thorough familiarity with the workings of the Department of Corporations and the issues facing it.

Since I have become Commissioner, I have emphasized areas which are, in my opinion, important to the Department, those we regulate, and to the people of the State of California. In think that ensuring the financial stability of the licensees we regulate is of paramount importance. During the past year, we have worked to increase the frequency of our regulatory financial exams of our licensees in the health care area in particular. We revised our examination criteria for industrial loan companies to more closely approximate the criteria used by the Federal Deposit Insurance Corporation, and we also revised the financial criteria we use in examining credit unions. I've also instituted quarterly meetings with Thrift Guarantee Corporation to make sure the industrial loan companies that do not yet have FDIC insurance are making progress to get it. I do not want any stragglers as the Legislature's July 1, 1990 deadline approaches.

In addition, we have been faced with a substantially increased number of health care service plans, broker dealers, and investment advisors. Our budget request for the 1988-89 fiscal year, therefore, includes a request for additional examiners and health plan analysts to keep up with this increased workload.

A separate goal of mine is to increase the degree of uniformity between California's regulations in the securities area and those of other states while still keeping in mind issues of investor protection. Uniformity where possible can reduce the burden on capital formation, and I have worked together with members of my staff and with other State regulators to achieve this goal.

For these reasons I think I am well qualified to continue to serve as Commissioner of Corporations.

Thank you.

CHAIRMAN ROBERTI: Thank you very much, Ms. Bender.

Any questions?

Well, I have one question. I think the budget right now indicates that the Department will have reduced the number of consumer complaints processed from over 6,000 in the last fiscal year to roughly 2500 for the fiscal year we're currently in. I'm concerned that in view of the market collapse and whatever, that actually we should be processing more than fewer.

Have you done anything to investigate why there's a turn down, or is there a legitimate reason here, or what?

MS. BENDER: Actually, Senator, there has not been a turn down, and I checked on that myself.

The number 6,192 is the actual complaints that were processed in '86-87, and this may have been our error; 2500 was our estimate for the budget '87-88 year, which was based on our most recent figures at the time, which were '85-86 figures. The figures for '87-88 will, in fact, be substantially higher than 2500, and I think higher than 6200.

CHAIRMAN ROBERTI: Very good, thank you.

Any other questions?

Is there any opposition?

SENATOR CRAVEN: Move Ms. Bender.

CHAIRMAN ROBERTI: Senator Craven moves that Ms. Bender's confirmation be recommended to the Floor.

Secretary will call the roll.

SECRETARY WEBB: Senator Ellis.

SENATOR ELLIS: Aye.

SECRETARY WEBB: Senator Mello.

SENATOR MELLO: Aye.

SECRETARY WEBB: Senator Petris.

SENATOR PETRIS: Aye.

SECRETARY WEBB: Senator Craven.

SENATOR CRAVEN: Aye.

SECRETARY WEBB: Senator Roberti.

CHAIRMAN ROBERTI: Aye.

The vote is five to nothing; confirmation is recommended to the Floor.

Congratulations.

Next is Rudolph A. Castro, Member of the Board of Prison Terms.

SENATOR TORRES: Mr. Chairman and Members, if I may, I'd like to have the honor of presenting to you for reconfirmation Mr. Rudolph Castro, whom I have known for well over 15 years and who has had more than 33 years of experience in the criminal justice system.

He's not only a graduate of UCLA with a Master's in Sociology, but he has put to practice many of the academic subjects, into real practice in terms of the criminal justice system.

He served for 12 years with the Probation Department in Los Angeles County, and I just wanted to come here personally and

beg your consideration and your acceptance of his reconfirmation this afternoon.

CHAIRMAN ROBERTI: Thank you, Senator.

Mr. Castro, would you like to add anything as to why you think you should be reconfirmed?

MR. CASTRO: No, I have nothing to add.

(Laughter.)

CHAIRMAN ROBERTI: That's pretty confident.

Any discussion? Questions?

Is there any opposition?

SENATOR CRAVEN: Move Mr. Castro.

CHAIRMAN ROBERTI: Senator Craven moves Mr. Castro's confirmation be recommended to the Floor.

Secretary will call the roll.

SECRETARY WEBB: Senator Ellis.

SENATOR ELLIS: Aye.

SECRETARY WEBB: Senator Mello.

SENATOR MELLO: Aye.

SECRETARY WEBB: Senator Petris.

SENATOR PETRIS: Aye.

SECRETARY WEBB: Senator Craven.

SENATOR CRAVEN: Aye.

SECRETARY WEBB: Senator Roberti.

CHAIRMAN ROBERTI: Aye.

The vote is five to nothing; confirmation is recommended to the Floor.

Congratulations.

MR. CASTRO: Thank you, gentlemen.

CHAIRMAN ROBERTI: The next confirmation is Mr. John B. Ohanian, Member of the Public Utilities Commission.

Senator Rosenthal is interested and he has been called, but I don't see him.

Senator Vuich, would you like to open?

SENATOR VUICH: Yes, I would.

Thank you very much for giving me the opportunity to come before you today.

I'd like to introduce to you today Mr. John Ohanian and request that you seriously consider his confirmation as Public Utilities Commissioner. He will be one of the very few Commissioners to have risen up from the ranks of the PUC staff, and guess what? John happens to be from the San Joaquin Valley, which is Vuich Country.

(Laughter.)

SENATOR VUICH: Among his colleagues on the Commission, he will be the only engineer by profession, and he will have already had eleven months' experience on the job as a Commissioner.

John has some 22 years of experience with State government, including the PUC. Coming from the Valley, he understands the concerns of agriculture and rural California. John came to this country in 1958 as a young man. He worked his way through college and became a mechanical engineer. He has a long record of service to people of our state, having worked in the Department of Water Resources on the California Water

Project, the PUC, and the Governor's Office of Planning and Research, where he was Chief Deputy Director.

His long career brings insight and understanding of the role and responsibilities of State government. I hope and urge you today to approve him for confirmation to the PUC.

CHAIRMAN ROBERTI: Thank you very much, Senator.

Mr. Ohanian, would you also like to speak as to why you feel you're qualified to assume this position? It's a question we ask the Governor's Appointees as a standard.

MR. OHANIAN: Yes, Mr. Chairman, Members of the Committee.

Before I go into my qualifications as a Commissioner, let me tell you that last March, when the Governor nominated me as Public Utilities Commissioner, it was to me the greatest honor I ever had.

It is also a great honor to come before you today for this confirmation.

There are sweeping changing occurring in the regulation of the Public Utilities Commission across the nation and especially here in California. As you know, the traditional goals of the Commission are to see that the rates the utility companies charge are fair and reasonable and that the services are the best possible. The utilities are private corporations and they must not only follow the rules we make, but they must also respond to many of the same forces in the economy that other companies and other industries do.

In the last 15 years or so, changes in the economy and technology have called upon us to look for new ways of accomplishing our goals. In some areas we are moving away from traditional rate making. This means that we must have the courage to try new methods but we must not take unnecessary risks.

Let's look briefly at what is happening: telecommunication; energy; transportation; and water utilities. In the telecommunication field, the court-ordered break up of AT&T has set off a stream of regulatory changes which have been pushed along by even more significant changes in telecommunications technology. Today the industry's very different from what it was only a few years ago. This is forcing us to reevaluate our definition of what is and what is not a regulated activity.

The energy sector is also changed rapidly, and the California PUC is an acknowledged leader in adopting its regulatory program to new issues in this field. In the past year we have put into place a whole new approach to the regulation of the natural gas industry. We have unbungled the pricing mechanism to allow the competitive market a greater influence in setting rates.

On the electric side, our utilities are facing new challenges that are even more dramatic than the recent shocks we have felt from the energy crisis. Today we must deal with the normal problem of short-term over-capacity with rates that many feel are too high.

Our responses to the energy crisis of the 1970s were even more effective than we dreamed. California is a clear leader in creating a whole new electric generation industry under the Federal Public Utilities Regulatory Policy Act in 1978. At the same time we were developing several large nuclear power plants. Then oil prices fell, leaving us with a large supply of very expensive electric power and new problems to solve. Already we are hearing proposals from the major energy companies for reorganizing their generation, transmission, distribution functions in response to changes in the economy and federal policies.

In the trucking industry the federal government abolished rate regulation for interstate carriage in 1980. Our Commission has been studying these questions for several years but we must proceed very carefully and learn as much as we can by watching how the federal program is working. California is unique in so many ways. We must be sure that any steps we take will not create safety problems or unnecessarily weaken the industry.

Even the privately owned water utilities are facing changes. Many of them are confronted with the need to rebuild old systems. Many need to expand in order to keep pace with the development. Others are facing the cost of water contamination and the need to comply with our Clean Water Act standards. And this is all happening at the time when investment capital is hard to raise for many companies.

Today we constantly hear two words that summarize the complex situation in which we find our major public utilities, especially the energy and telecommunication companies. Those two words are: bypass and competition.

Bypass happens when utility costs become so high that some of the larger customers are able to leave the regulated system and furnish their own services more economically. The unfortunate effect of this is that the cost to the utility of providing services to everyone else does not usually decrease. This means that the cost to the utility must be spread among fewer remaining customers. This, of course, means rates go up. As rates go up, there's another round of bypass.

What is worse is that the average residential customer has little opportunity to provide his own service, so it is his rates which can be driven up. We have a major responsibility to protect this class of consumers.

Competition is often offered as a means of avoiding bypass because competition provides a powerful incentive to keep costs down. Utility experts across the country are debating how competition should be used as a cost cutting tool, but very few fail to acknowledge that it can help to keep the rates lower.

The fact is that some bypass is economical; some competition is necessary. The question we must answer is not whether but how much.

With all these changes, the next several years will certainly be as difficult as any the Commission has ever witnessed. The regulatory foundation being laid today will affect the lives of every Californian for generations.

I can say without hesitation that the responsibility we have is enormous. I firmly believe and I submit to you today that I can contribute much to helping ensure that our course in this time of change will be the correct one, and our progress will be careful and steady.

Now let me move into my -- why I feel I'm qualified to serve as a PUC Commissioner.

As some of you know, I was born in Turkey, raised in Lebanon, and educated here in California. I have lived in countries which do not have governments which are as responsive to the people as ours is. I have the greatest respect for the freedom of our system of government provides [sic] and for the power of our free economy, because I know what it is like elsewhere. I have never taken these things for granted. That is why I want to contribute all I can as a PUC Commissioner.

I began my professional career in California in 1966 as an engineer for the State Department of Water Resources on the California Water Project. After that I served 14 years on the staff of the Public Utilities Commission as an engineer from 1969 to '83. In 1983, I was appointed Chief Deputy Director in the Governor's Office of Planning and Research where I had the great opportunity to work with virtually all the major State agencies in coordinating large development projects in environmental quality.

In addition to my career in government, I have been involved in farming, real estate and small business. As a result, I know the importance of good common sense in both the public and private sectors.

I think that my years with the PUC have given me a very good insight into how PUC regulation works. For example, I was there when the first intrastate airline services were just starting business. During those years, while passenger air carriage was regulated, my job was to help establish the highest possible level of service at the lowest possible rates for intrastate air transport.

My experience with airline and trucking regulation has taught me that, while competition is important, we must take care that it does not result in lowered service to the public or in safety problems. I think the lesson here is that competition has many benefits, but it is no panacea. Government and the marketplace have different powers; to provide the best service at the least cost we need the right combination of both. It is not a choice of one or the other, but a marriage of both that the public needs.

Let me give you just a short example how, as a Commissioner, I believe we should structure the balance of regulation and competition.

The telephone and the computer are ushering us in the information age. Telephone company divestiture at the federal level has brought a host of new companies offering a new menu of high tech telephone services. The new competition has encouraged some companies to address the new market their services [sic], and in the recent case of Pacific Bell, marketing abuse occurred. We Commissioners learned that the Pac Bell had used high pressure sales pitches directed at immigrants, and elderly, and the poor

to sign up customers for services that they really didn't want or need. The Commission ordered the profits to be returned to the customers.

But I did not believe this really solved the problem. I believed that the best way to protect the public was to provide a consumer education program. The other Commissioners agreed and unanimously set aside some $17 million of the improperly collected profits for an ongoing consumer education program.

The point I'm making is a single one. We have a new opportunity to improve efficiency and to force the renovation in the industry through competition, but we still have the responsibility to make sure that the benefits are equally available to all. I believe this is so because I view our major utilities as a key part of the infrastructure on the economy and social life of the state. Competition has not changed that nor should it. It has only widened the range of methods we have of enhancing efficiency.

Today we can choose among four major competing long distance telephone companies, but we are just as dependent on the telephone as we were when only AT&T existed. We still expect good service and fair play, and the public still looks to the Public Utilities Commission to oversee the services on which they depend.

The lesson I have learned from my experience as a regulator teach me to welcome healthy competition but to be careful of the potential downside. Competition can be only as good as the competitors, so I believe we must move forward but very cautiously.

In conclusion, I cannot resist mentioning another point in my experience which you might consider. I already have a year of experience as a Commissioner. I would also point out that the professional composition of the Commission is important. We currently have a lawyer, an economist, an MBA and a political scientist, and I am the only engineer.

Mr. Chairman and Members of the Committee, I ask for your confidence and your confirmation as a Public Utilities Commissioner.

Now I will answer any questions you have.

CHAIRMAN ROBERTI: Thank you very much, Mr. Ohanian.

Senator Rosenthal, as Chairman of the Energy and Public Utilities Committee, has joined us for questions.

Senator Rosenthal, we'll let you start.

SENATOR ROSENTHAL: Thank you, Mr. Chairman.

Mr. Ohanian, that's a fine statement.

MR. OHANIAN: Thank you.

SENATOR ROSENTHAL: No one could find fault with it.

Let me ask you some specific kinds of questions that you've had to deal with and will have to deal with.

In the San Diego rate case, you were the Commissioner which has been assigned to oversee that rate case at the PUC?

MR. OHANIAN: Yes.

SENATOR ROSENTHAL: That rate case is due to begin next month before the PUC.

MR. OHANIAN: Yes.

SENATOR ROSENTHAL: When do you estimate that that rate case will be completed, and when were you first assigned to be the lead Commissioner on that case?

MR. OHANIAN: When I was assigned? I guess recently, within a month or so; within a month.

SENATOR ROSENTHAL: Within the month.

MR. OHANIAN: Yes.

SENATOR ROSENTHAL: When do you estimate that the rate case will be completed?

MR. OHANIAN: Well, I have to see the reports of our division of ratepayers advocate; their stipulation they're doing. They're working on it, my staff is working on it, so I can't assure you exactly what time, a date.

As far as the date of finishing, I will try to do it as expeditiously as possible.

SENATOR ROSENTHAL: Do you have any idea when that might be?

MR. OHANIAN: No, because I just --

SENATOR ROSENTHAL: Six months? A year? Next year?

MR. OHANIAN: It's got to be within a year, Senator.

SENATOR ROSENTHAL: Do you have any background in energy issues?

MR. OHANIAN: Yes, I'm a mechanical engineer.

SENATOR ROSENTHAL: Energy issues.

MR. OHANIAN: Well, mechanical engineers deal with energy issues. I was working with the Department of Water Resources in designing power plants and pumping plants.

SENATOR ROSENTHAL: How have you gone about preparing yourself for the undertaking of heading up a general rate case?

MR. OHANIAN: How am I going to proceed with it?

SENATOR ROSENTHAL: You've indicated in our former discussions with you that you didn't have any background in those kinds of issues.

I want to know how you plan to prepare for that undertaking since you're going to be the lead Commissioner on that subject?

MR. OHANIAN: Well, I have to rely on the thousands of people that we have at the Commission, Senator, as you know. I can't be an expert on every one of the fields that there is. We have to depend on staff. We have a public division of ratepayers advocates; we have to see their reports, and then we have to see what the applicant is requesting, and we have to go through the hearing process. If it takes a stipulation, maybe if they want it, if everybody agrees on it, and I have to look at it very carefully and see that those are stipulations that are resulting not to the disadvantage of the ratepayers.

We have to go public hearing if that's what it would take to have the input of the public. So we have to listen to all kind of sides of stories in order to be able to make the decision on the rate case.

SENATOR ROSENTHAL: Have you spent time in San Diego in an attempt to understand the dynamics of that utility?

MR. OHANIAN: Yes, I've been over there once, and also my staff is going next week, my personal legal advisor is going down there next week to start the process going on.

SENATOR ROSENTHAL: Have you also met with the groups, the ratepayer groups down there, or residential groups, or consumers in terms of their input into that rate case?

MR. OHANIAN: I will do that because there's going to be a public meeting over there and I intend to attend that one in order to get the public input on that one, yes.

SENATOR ROSENTHAL: What do you think should be the relationship between Commissioners and the utilities about which they will be making significant decisions?

MR. OHANIAN: The relationship should be professional.

SENATOR ROSENTHAL: Do you have any comments on the recent press accounts of Superbowl ticket offers --

SENATOR CRAVEN: Mr. Chairman, I've got to object to that question. I think that question has no relevancy as to the competency of the nominee.

CHAIRMAN ROBERTI: Well, I'll accept that as a statement on Senator Rosenthal's question, but I think he has to develop his line of reasoning.

SENATOR CRAVEN: Well, I want to see what comes of this line, then. I'm waiting with bated breath.

CHAIRMAN ROBERTI: Very good.

SENATOR CRAVEN: What's preceded it has not enthused nor enthralled me too much, to be very frank about it.

CHAIRMAN ROBERTI: Senator Rosenthal, you may continue.

SENATOR ROSENTHAL: There was an inference, and I'm not suggesting that that's so, I'm just trying to find out what you think the relationship should be between a Commissioner and a

rate case on which you're going to be making major decisions. You're the lead Commissioner --

MR. OHANIAN: Yes, Senator.

I can answer as one of the Commissioners. I can't answer for the rest of the Commissioners what they would do, what's proper for them, what is not.

I personally, I've been 20 years over in the State government. I have always been a professional level working with anybody that I deal with, and that is the way it's going to go.

I will -- I don't know what else do you want me to say. I'm a professional person normally.

If you're asking me specifically some other issues, what other Commissioners have done, I have nothing to say except my standing, my performance. That's what I look at.

SENATOR ROSENTHAL: I understand that you did not take the tickets, but I am trying to develop a concept here of what you think the relationship should be --

SENATOR ELLIS: May I interject?

CHAIRMAN ROBERTI: Yes, Senator Ellis.

SENATOR ELLIS: There's some information here that perhaps Senator Rosenthal --

SENATOR CRAVEN: He's unaware of.

SENATOR ELLIS: -- is unfamiliar with.

It's a matter of standing, Mr. Ohanian and other Commissioners paid for the tickets. And there were several Legislators who went to the Superbowl and did not pay for them. I was one of them.

And you can direct your question at me if you want, but I think you know a couple of football tickets are not going to influence me; they're not going to influence Mr. Ohanian or anybody else with the integrity that is required for his job or this job here.

And I might add that the newspaper was incomplete, and I wish they'd correct the record. A savings and loan invited us to the Frank Sinatra thing the night before and a reception, and that cost more than the Superbowl tickets, and they didn't report that at all. And I told them that they did not report it; they should have reported it, and they refused to report it. When I asked why, they said they weren't after Home Federal; they were after SDG&E.

SENATOR CRAVEN: Mr. Chairman, I'd like to say a word or two on behalf of Mr. Duda, who was one of the Commissioners involved with the Superbowl tickets.

And this is just to advise that Mr. Duda did in fact receive tickets for which he paid face value. He transported himself and his son who accompanied him on the trip at his expense, and all expense while he was in the city of San Diego to attend that particular event were at his cost and not any gratuity on the part of San Diego Gas and Electric Company.

SENATOR ROSENTHAL: I am not suggesting that Mr. Ohanian did anything wrong.

There is a difference, it seems to me, about a Legislator who deals with many subject and has an opportunity to vote on many issues as against the Commissioners who deal

specifically and make decisions based upon some kinds of relationships. And all I wanted -- and I'm not finding fault with what he did. He did not take the tickets.

MR. OHANIAN: Excuse me, Senator.

You know that I'm not interested to go Superbowl. I have not -- I did not accept nor I said encouraged them to send me tickets, so I have nothing to do with it.

If you're asking me my personal thing, and I have already committed myself, that's what I'm going to operate as a professional.

Now, I can't tell for other Commissioners what they do, how they do it. We are each independent Commissioners, and I can't say anything else on that subject.

Same thing with the a Legislator. Each Legislator independently works, and that's what we do.

SENATOR ROSENTHAL: I started off by saying that you did not accept the tickets, and so I was not --

CHAIRMAN ROBERTI: Senator Rosenthal, I'm going to call on Senator Deddeh who is here. He wants to speak in behalf of Mr. Ohanian. Then we'll return to the questions.

SENATOR ROSENTHAL: Fine.

SENATOR DEDDEH: Thank you, Mr. Chairman and honorable Members of the Rules Committee.

I must confess that I've been around here for 22 years, and this is my first time appearing on behalf or against any nominee of the Governor of the State of California to any position.

I met Mr. Ohanian a few months ago, and it's one of those relationships that exist on your first meeting. I identified with him for many probably emotional and spiritual reasons, if I may allow that, and I want to state that.

When Mr. Ohanian spoke to me in English, his English was no better or worse than mine. And so I immediately identified with the fact that this man comes from a different part of the world, and that to me is a very important element in identifying a man's character and a man's determination to improve himself, and that impresses me a lot.

And then I did some checking on him when I discovered that he is a member of the PUC and some day the Governor may honor him by appointing him. I did check with some friends, some with whom he does not work, and some with whom he works, some that he might regulate and some he does not -- he doesn't have to regulate.

I have yet to hear, Mr. Chairman, from any source saying to me that this man's integrity is in question, ability is in question, his sense of dedication is in question.

I thought I owed it to the Rules Committee, Mr. Chairman, to share that information with you, and I hold Mr. Ohanian in a very high esteem, and I would like to add whatever or however important that is to the thinking of the Rules Committee, that this gentleman's name ought to be sent to the Floor of the Senate.

With that, I want to thank you and I'd be happy to answer any questions.

SENATOR MELLO: Come back in 22 years.

(Laughter.)

SENATOR DEDDEH: I hope none of us will be here 22 years from now -- I mean in the Senate.

(Laughter.)

CHAIRMAN ROBERTI: Thank you, Senator.

Senator Rosenthal.

SENATOR ROSENTHAL: Let me continue.

The PUC is about to undertake a major investigation in the trucking regulations next month. And your career with the PUC has been principally within that transportation division where you've dealt with these issues.

MR. OHANIAN: Yes.

SENATOR ROSENTHAL: You bring an expertise to the Commission in its investigation that is significant in terms of that issue to the future direction of trucking regulation in the state.

How do you approach this major PUC investigation, and what views on trucking regulation have you developed from your years at the Commission dealing with this issue?

MR. OHANIAN: First of all, it's not an investigation, Senator. It's an en banc hearing; that means educating the other Commissioners along with myself to what the present situation is in the trucking industry. And after we do that, then the next process, whatever it would take, which we're not sure yet what the en banc hearing is going to provide is with the information.

SENATOR ROSENTHAL: Do you have any views on what trucking regulation has done, will do? Is it good, is it bad generally?

MR. OHANIAN: Well, let me give you my experience which has been in the airline regulation in the past. I'm going to go past because I've been away from the Commission in the last six years.

SENATOR ROSENTHAL: But you've been with the Commission this past year?

MR. OHANIAN: No, no, I'm talking --

SENATOR ROSENTHAL: As a Commissioner.

MR. OHANIAN: Yes, yes, I've been in the past year, but I'm talking after I left the Commission as a part of the staff.

In the airline regulation, when the deregulation came in the federal level treatment, Senator, is, one, economic deregulation happened. Number two is abolishing the office, and number three is deregulation of the service.

When those three things happened in the deregulation, what we're talking in historically, and that's what we have the problem now. Okay, it goes -- the service goes down.

In California the rates were the lowest in 1970s. I'm sure everyone of you know that. And today the rates are three times or four times more than that, but it is not true in the interstate one. That's a long haul. That's a different thing in federal level; when something happens does not necessarily mean it happens in the State of California.

The rates in Washington to California, airline rates, are the cheapest than ever in the history, but it is the highest in California with intrastate travel. Now, that's where the difference is.

We cannot take the federal rules and apply to the California; say it's going to work in California, too.

So that's why I'm cautious about it. But I do believe that the transportation, the trucking industry is an infrastructure system of the State of California, and that is the basis I've been looking at it every decision that I make.

SENATOR ROSENTHAL: So you see interstate trucking different than intrastate?

MR. OHANIAN: Intrastate is different, yes, definitely.

SENATOR ROSENTHAL: And interstate competition has reduced prices. Intrastate competition has not only not reduced, but it's eliminated competition.

MR. OHANIAN: In California. I haven't looked at a study yet, because there's a lot of reports coming out, but experience in the airline in the past, I'm talking historically, that's what happened. And that's the experience that I will be looking very carefully whatever the decisions we make.

SENATOR ROSENTHAL: What role do you believe that the PUC has in helping to secure that only safe trucks operate on the California highways?

MR. OHANIAN: How do I accomplish that?

SENATOR ROSENTHAL: Yes.

MR. CHANIAN: Well, first of all, the safety issue has to be coordinated with the other State agencies -- Highway Patrol and the DMV -- so we can come up with the coordinating with those departments, the safety issue can be solved.

I feel the safety issue is the driver. We might have to come up with some kind of an educational program to the drivers, I'm not sure. But there has to be, because the driver is the one that is causing 95 percent of the accidents. And the PUC has no regulation on the driver.

SENATOR ROSENTHAL: Well, to follow that up, do you believe there's any connection between rate regulation and safety of the driver?

MR. OHANIAN: I'm sure there is, Senator, but I don't know exactly the magnitude of it. You see, once we measure the magnitude, then we know how much we can do and what we should do. In the absence of measuring that magnitude of relationship, is no way I can tell you that we're going to do, and that's exactly what it's supposed to be.

SENATOR ROSENTHAL: What role do you believe that the Legislature should take on deregulation on trucking rates in connection with the PUC's pending action?

Should the Legislature get involved with that?

MR. OHANIAN: Legislature should be involved or not you're saying? Definitely, Legislature should be involved in anything what the Commission does as far as I'm concerned. It's a -- we have to work together as far as that goes.

I mean, we can make rules -- you make rules and we got to implement them, and that's basically it is.

SENATOR ROSENTHAL: Let me go to another issue.

You've spent almost a year observing the controversy surrounding the PG&E's Diablo Canyon facility. Last year the PUC public staff submitted its Diablo Report that was the subject of a legislative oversight hearing.

What do you think are the most significant PUC regulatory issues raised by the Diablo case?

MR. OHANIAN: Senator, I'm going to defer that thing. As you know, we have an ex parte rule on talking Diablo Canyon issues on the PG&E. If I do, then I'm jeopardizing my position as a Commissioner.

CHAIRMAN ROBERTI: What rule?

MR. OHANIAN: We have an ex parte rule.

SENATOR ROSENTHAL: You can't talk to the Commission, but it doesn't say you can't talk to the Legislature. You can't talk to the utilities on it.

MR. OHANIAN: Well, anybody we talk to, we've got to be able to submit -- my understanding is, I mean, I'm not a lawyer to be, but that's what they told me, that I'm not supposed to discuss the Diablo issue with anybody until the decision has been made.

Now, if some legal division comes up, my legal department says, "Yes, you can," I'll be glad to discuss it. But unless --

CHAIRMAN ROBERTI: I appreciate your concern, but the fact that concerns me is -- not so much as far as your confirmation -- but that the Legislature, too, has to obtain information, and we can't have ex parte orders prohibiting people who are testifying before us.

SENATOR VUICH: But aren't you giving it to the press when you have it here in an open hearing?

CHAIRMAN ROBERTI: Well, I think we should try to find out now the issue has been raised.

Could you have counsel come on by?

I appreciate your concern, but I guess we should have --

SENATOR VUICH: You've got a few lawyers on here. Why can't they answer the question?

MR. OHANIAN: I mean, I have a legal advisor over here if you want to ask him the question.

CHAIRMAN ROBERTI: Yes, we're calling ours. In the meantime, why don't we have yours come on up.

SENATOR ROSENTHAL: I'm not suggesting you tell me how you're going to vote on the thing.

MR. OHANIAN: No, no, I'm not saying -- well, I don't know how I'm going to vote because I can't.

SENATOR ROSENTHAL: Just explain the process.

CHAIRMAN ROBERTI: Explain the process to us.

MR. OHANIAN: Well, the process is that --

CHAIRMAN ROBERTI: Fine if you want to, Mr. Chanian, and also your attorney is coming up, too, if you want to talk to him.

MR. WILSON: Mr. Chairman, may we have just a moment?

CHAIRMAN ROBERTI: Yes.

(Thereupon Mr. Ohanian conferred with his counsel, Mr. Wilson.)

MR. OHANIAN: Can we go --

CHAIRMAN ROBERTI: Yes, Mr. Ohanian.

MR. OHANIAN: See, on the Diablo Canyon, we are in the process of evaluating the disallowance and allowance, and whatever, all the detailed questions. I'm not going to go into the numbers, and I don't think you're interested in that.

But the problem over there we have is, as I understand, it is alleged it's an engineering problem. It's a design engineering problem alleged.

So I feel I'm very comfortable on that one. I'm going to take a very serious and conscientious look at it because of my background, being an engineer, and see exactly if those issues that were raised at the hearing, which are gong to be raised, are reasonable enough as an engineer looking at it, and allow or disallow those portions which I feel are not for the ratepayers' interest.

SENATOR ROSENTHAL: Because as an engineer, you would understand a so-called mirror image in which plans were shifted or reversed.

MR. OHANIAN: Yes, Senator.

SENATOR ROSENTHAL: And as a result of that, the national regulatory body prevented PG&E from starting up and involved them in some major rebuilding of the plant, as it were.

What I'm trying to get at is that the process by which you would deal with that particular issue, and I think you may have explained it, and I just want to identify for the Legislators here, you know, your views on that mirror image, or the geological faults which have been alleged.

MR. WILSON: May we have another minute, please?

CHAIRMAN ROBERTI: Yes.

(Thereupon Mr. Ohanian conferred with his counsel, Mr. Wilson.)

SENATOR ROSENTHAL: Did you want to add anything further to that?

MR. OHANIAN: No, because he was cautioning me that kind of beware where I should stop saying because it might jeopardize the case. That's what it was. It's a delicate one, you know.

CHAIRMAN ROBERTI: Yes.

Please identify yourself.

MR. WILSON: My name is Ken Wilson. I'm Commissioner Ohanian's legal advisor.

I really wish for your benefit and for the benefit of the other Members here today to let you know that I'm advising Commissioner Ohanian that that's a case before him, and he'll need to make his decision on the records, hearing testimony, having cross examination, and so forth.

And it puts him in a terribly difficult position to express opinions in this forum, even though he has the utmost respect for this forum. He also needs to be very careful about how he's going to make his decision and that it be confined to the record and testimony, and so forth.

SENATOR ROSENTHAL: I have no problem with that.

But he expressed himself on the San Diego rate case as well, in which he's the principle Commissioner, and there was no objection to that.

MR. WILSON: Senator, it was the level of detail.

MR. OHANIAN: Not only the level of detail, Senator, it's the magnitude of the case. I'm sure you know, it's billions of dollars case that's at stake.

SENATOR ROSENTHAL: That's the reason I'm raising the question.

MR. OHANIAN: Right, you're absolutely right. I take it very seriously myself, as I indicated many times to you privately and also over here, that it's a serious business over there and it has to take it very cautiously to proceed in the case.

SENATOR CRAVEN: You have spoken to Senator Rosenthal privately?

MR. OHANIAN: Well, yes, I had a meeting with him, yes.

SENATOR ROSENTHAL: Twice.

SENATOR CRAVEN: And we still have these questions?

SENATOR ROSENTHAL: Yes.

Well, I have one more item I'd like to discuss with you: the interstate gas pipeline.

The PUC and the Energy Commission are in disagreement concerning the need for this new interstate pipeline. Unfortunately the public disagreement has undermined California's position in federal proceedings concerning that new pipeline.

What are your views on whether ratepayers should be hurt if the federal, if FERC, the federal agency, approves an interstate gas pipeline?

MR. OHANIAN: The question, if I understand that --

SENATOR ROSENTHAL: How does it affect the ratepayers?

MR. OHANIAN: I haven't looked into the economic value of that one because it was decided before even I got to the Commission, and I don't think it's before us in order to -- we're not going to make a decision on that one at the Commission level. So, I have no way of making a decision on that.

SENATOR ROSENTHAL: Let me just say in closing, I don't know whether other Members of the Rules Committee have any questions, I'm pleased that we've had a good series of questions here today. I didn't hear anybody else asking questions, so I'm just putting --

CHAIRMAN ROBERTI: I have a couple of questions.

SENATOR ROSENTHAL: Okay.

I've stated before and I'll probably state again in the coming year that the Public Utilities Commission is facing dramatic issues which will have a profound impact on all the ratepayers in this state. Issues such as Diablo Canyon and energy baseline rates literally translate into billions of dollars at the ratepayers are going to have to pay.

It's critically important that the Commissioners selected by the Governor to determine these important decisions make careful considerations.

I want to reaffirm to Mr. Ohanian, as he moves toward confirmation, that his job in San Francisco will be a difficult one. And I hope he'll give close scrutiny to many of the recent actions by the Commission which I believe may be moving too quickly to deregulate or less oversight of telephone and energy utilities, possibly at the expense of California ratepayers. And that the Legislature will continue to oversight in terms of what's happening because you have a responsibility, the Commission has a responsibility, to keep the rates that the people who pay the bill is at the lowest possible level.

I have no further questions.

CHAIRMAN ROBERTI: Thank you, Senator.

Let me ask you a question, Mr. Ohanian.

In Southern California, probably in the last month, with the December rates coming out, we've had probably as great a number of complaints as we've had in all the years that I can remember about high rates on the gas bill.

Now, I know part of it is pursuant to legislative directive that to maintain conservation when you went over a certain amount of usage, your bill tripled on you?

MR. OHANIAN: Well, if you go to your second, that's what happens basically, yes.

CHAIRMAN ROBERTI: And people were just unaware with the cold December that was going to happen. I think the law ought to be changed because the whole idea of the law was to promote conservation, not to punish people who happen to be stuck with a cold winter.

But be that as it may, one concern however has been that part of the problem may be, and I would like your comment on this, not just the legislation which we passed, but that Southern California Gas failed to meet its storage requirements for the winter, and to augment their supplies they bought on the spot market. I'm only casually acquainted with what that means, but that that caused them to seek and get higher rates. So part of the problem is their own mismanagement, or wanting to keep their reserves down to keep their own costs down, therefore hitting the user with an excess bill. So, it's not only the legislation that we passed, but also a part of the problem was with Southern California Gas itself, and I'm sure you know --

MR. OHANIAN: Yes.

CHAIRMAN ROBERTI: -- that for those of us who are Legislators, I mean, we've just been inundated with complaints. I haven't received so many utility complaints in I can't remember how long.

Do you want to comment on that?

MR. OHANIAN: Yes, Senator.

That's why we have already opened an OIR, or investigation for that particular case, and it's going to be happening, I think, in the next month or the month after that.

And at that time ---

CHAIRMAN ROBERTI: You're in the process of investigating it?

MR. OHANIAN: Right, that's what we're doing.

CHAIRMAN ROBERTI: Including their failure to meet their storage requirements?

MR. OHANIAN: Right, yes.

CHAIRMAN ROBERTI: I'll leave it at that.

I'm concerned very much also with the point Senator Rosenthal raised, and that is on the trend toward deregulation.

I tend to oppose deregulation, period, but when you're talking about a utility, which in essence has a monopoly, then the whole business of deregulation makes no sense because there's no competition.

I just want to leave you with that in mind, that many of us in the Legislature are very, very concerned about deregulation, especially in a monopoly situation, and our fears -- not specifically directed at you but at the Commission in general -- is that the Commission has been moving in a deregulation posture as if we're talking about a free enterprise system, when in essence public utilities are anything but your normal free enterprise, competitive system.

I'm leaving that with you. I lean toward your confirmation this afternoon.

MR. OHANIAN: Thank you.

CHAIRMAN ROBERTI: But I am very concerned about increased rates, and I do want to hear all the witnesses. But those of us who are Legislators have an obligation to our constituents, who are your ratepayers, and we are concerned that this move towards deregulation has been damaging to them.

Senator Petris.

SENATOR PETRIS: Yes, I'd like to pick up on the same issue.

I think President Carter made a bad mistake when he launched the country on deregulation. A lot of people nowadays are blaming it on President Reagan. He carried it on and extended it, but it started with Carter.

I don't see very many good results around the country in any industry. There's a temporary cut in fares here and there, but they remove the service from nonprofitable lines. It costs more to go from here to Fresno or to Bakersfield than it does to New York. You know, that's outrageous.

MR. OHANIAN: I told you, Senator --

SENATOR PETRIS: Absolutely outrageous. And the same is true of Greyhound Lines and so forth.

That's not our concept of serving the public and having the licensing and regulating system in the first place. And I think we've lost sight of the fact that the regulating agencies are there for that very purpose, you know, to protect the interests of the consuming public, no matter what the service or product might be offered by the companies within that body of regulation.

Would you agree with that statement?

MR. OHANIAN: Yes, I do, Senator.

SENATOR PETRIS: Would you agree that your mission on the Commission is to safeguard the interests of the consumer more than anyone else involved in the field?

MR. OHANIAN: Senator, if we didn't have to be concerned about the consumer, then there's no need for the PUC.

SENATOR PETRIS: Well, that's good. I'm glad to hear that.

I would hope, you know, the policies of all the Commissioners would reflect. I'm sure they do in a lot of cases, but there's some times when there's a lot of doubt.

I'd like to ask you about the Southern Gas thing. Is there a regulation of the Commission that requires them to have a certain amount of storage?

MR. OHANIAN: Yes.

SENATOR PETRIS: And how's that done? Do the engineers go out and check, and they come up with a number?

MR. OHANIAN: No.

SENATOR PETRIS: Or the economists do it? Who does all that?

MR. OHANIAN: Well, economists does it basically, because it's a matter of reliability service that you need. So, the more the storage capacity you have, the more reliable service you've got.

SENATOR PETRIS: How did this lack of storage come about? Was it a severe winter with an enormous use?

MR. OHANIAN: No --

SENATOR PETRIS: Or an unusual year, or what? What happened?

MR. OHANIAN: Well, it was an unusual year, I mean, cold weather. They were not anticipating to have this kind of cold weather.

But the other part of the natural gas supply side is the one where, you know, out of state gas which is coming in and they're not producing this gas because of the pricing. There's an old gas, new gas, and it's complicated. And that's one of the reasons that SoCal Gas couldn't get the gas.

And the other reason is the storage, what you're talking, is that storage is --

SENATOR PETRIS: Was it a matter of lack of supply?

MR. OHANIAN: Well, if you have more storage then the ratepayers are going to pay more money for that benefit of sitting there, that gas. So, we got kind of a balanced act.

SENATOR PETRIS: Does that mean the storage requirements were unrealistic?

MR. OHANIAN: Excuse me?

SENATOR PETRIS: Does that mean the storage requirements were unrealistic?

MR. OHANIAN: No, the forecasting, see, it's a matter of forecasting how much you need in storage because you've got to forecast what the cold weather is going to be. If you did the forecasting right, then everything drives right. And if you did the forecasting a little bit wrong --

SENATOR PETRIS: So they made an error in the forecasting?

MR. OHANIAN: So, that's where it is.

SENATOR PETRIS: So do the weatherman and the stockbrokers and everybody else, I guess, especially the latter.

MR. OHANIAN: We got to do our best.

SENATOR PETRIS: Anyway, you're looking into that soon?

MR. OHANIAN: Yes, definitely.

SENATOR PETRIS: I have a question about the treatment of the elderly in energy. I don't know what the present state of the world is on that regarding special rates, lifeline type of thing.

Where are we now? Do we have any special rates for the elderly?

MR. OHANIAN: Yes, well, it's not elderly. It's a special rate.

SENATOR PETRIS: It's for income level?

MR. OHANIAN: Income level. That applies for everybody, income level.

But there's one thing for elderly that we have done last time, oh, about a couple months ago where the issue came in, to notify the elderly if they haven't paid their bill. And we made a special deal for the elderly that it should be third time contact for them before they turn in off, and not only the third time contact, should be the next-door neighbor or somebody other than that particular house to make it sure that that elderly is not out of town or in hospital, when he comes back --

SENATOR PETRIS: When was that policy begun?

MR. OHANIAN: About a couple months ago.

SENATOR PETRIS: Were there any reports back on how it's working?

MR. OHANIAN: I don't know.

SENATOR PETRIS: Too early.

MR. OHANIAN: But that's a benefit for the elderly.

SENATOR PETRIS: That sounds like an excellent way to handle it to me. It shows there's a little concern there.

MR. OHANIAN: Yes.

SENATOR PETRIS: What about the PG&E -- I don't know if Southern Cal has it, but PG&E has an open invitation to the public to send money to them to help pay for the bills of some of the poor who can't afford it. I forget what that program is called.

MR. OHANIAN: Yes, what it is --

SENATOR PETRIS: Is that still in effect?

MR. OHANIAN: Yes, it is.

SENATOR PETRIS: How much is that bringing in?

MR. OHANIAN: I don't know the numbers, dollars, but it is handled by the Salvation Army, that kind of stuff, you know. Those people, they can't pay the bill --

SENATOR PETRIS: Well, after you've heard all these questions, and you've described the complexities, why do you want to be on this thing anyway?

(Laughter.)

SENATOR PETRIS: I mean, there's time to back out, you know.

MR. OHANIAN: That is what I call paying back to California.

SENATOR PETRIS: That's the challenge you want to make, okay.

MR. OHANIAN: That's a challenge.

SENATOR PETRIS: Thank you.

CHAIRMAN ROBERTI: Now, is there any support in the audience who wish to testify? Mr. O'Hara, come forward.

MR. O'HARA: Mr. Chairman and Members, Gerald O'Hara, California Teamsters Public Affairs Council.

I've communicated our support to the Committee in writing, but given the opportunity I want to certainly underscore this and say we are very much in support of Mr. Ohanian's confirmation. We think his background in the transportation division will be very helpful. We have a vital concern with regulation of the trucking industry in California, and we think his measured and reasonable way of looking at regulation will serve both the public and not harm the trucking industry in California.

Thank you.

CHAIRMAN ROBERTI: Thank you, Mr. O'Hara.

Is there anyone who wishes to speak not necessarily in opposition but making observations on the appointment?

Ms. Siegel.

MS. SIEGEL: Thank you, Senator Roberti.

Senators, I come here neither to endorse Commissioner Ohanian or to oppose him, but to bring you some facts of the record of the Public Utilities Commission in the last several years when a Republican majority obtained, and some of the problems that we face in the future that I think are not only difficult, but disastrous if not handled properly.

First with respect to the past actions. As you're aware from the wide spread discontent of gas bills, not only in Southern California but now in Northern California, gas prices have shot up markedly -- triple in some instances in Southern California. Part of that was due to the extraordinary cold weather, but part of it is due to the policy of the Public Utilities Commission, where they're shifting costs from the large industrial users to the small captive customers, the residential and the small business customers.

For example, between December, 1984 and December, 1987, while industrial customers enjoyed decreases of 42 percent caused by the lowering of natural gas commodity costs, residential customers only got a 6½ percent decrease; hardly equitable treatment.

SENATOR PETRIS: May I ask a question?

CHAIRMAN ROBERTI: Senator Petris.

SENATOR PETRIS: Excuse the interruption.

What is the publicly stated rationale for that?

MS. SIEGEL: Well, the rationale of the -- the pleadings of the companies and the rationale of the Commission is that that's to meet competition. However --

SENATOR PETRIS: From whom and where?

MS. SIEGEL: From outside companies to serve these markets.

However, as we found out in this last freeze, where 800 customers of SoCal Gas had to go off the system, they were interruptible customers, and as interruptible customers they got

steep discounts because they were interruptible. This was the first time they had to be interrupted.

They were interrupted because they were supposed to have alternative fuel capability. They were supposed to be able to switch from gas to oil when it was necessary.

It turned out in December that although 800 customers were interrupted, there were many customers that did not have switchability. Nobody checked that. So they were really defrauding the public. They're really defrauding the ratepayers.

SoCal Gas, I think, was imprudent, but those issues will be discussed in the upcoming case, in not providing adequate storage and buying gas when spot markets -- the spot market was much cheaper than it is today. Today when you go out to buy gas at the peak of the heating season across the country, you'll pay the highest prices.

So, those people in Southern California really got kind of a double whammy. There wasn't enough gas in storage, and the procurement practices were deficient.

In regard to Southern California, since we're taking a geographic interpretation here, I call your attention to the fact that this Commission, while adopting some very stringent rules on holding companies in the case of San Diego Gas and Electric two years ago -- those rules incidentally caused San Diego to drop the whole idea -- this year in the case of Southern California Gas Company, virtually gave away the store.

There is no cap on profits so that SoCal Gas, which owns cogeneration facilities -- they have 1300 megawatts of

cogeneration, some of their jointly owned cogeneration facilities with industry; that means they generate on the industrial site -- include a 49 percent ownership of Arco Watson Refinery Project, a 50 percent ownership of Sun Oil, a 30 percent ownership of the Harbor Cogeneration along with Champlin Oil Company, a 50 percent ownership of the Kern River facility with Texaco, a 50 percent ownership of Sycamore with Texaco, and a 50 percent ownership of Texaco Northern, among others.

These contracts call for avoided costs. These contracts were established during the 1983-85 period that give them the highest price in the world when they sell back to the utility, to Southern California, the excess electricity that they can generate.

On the other hand, while they're getting the highest price, they're making a bundle on their gas buying ability to serve the enhanced oil recovery market. Whereas, normal electric generators, like the Edison Company generators, have to pay 9½ cents a therm to transmit gas to their generators, Edison is only paying 3½ cents but charging 9½ cents to transport the natural gas to their EOR facilities. So they make a bundle both ways, buying and selling.

Yet, gentlemen, the Commission failed to invoke any kind of cap on profits in this latest holding company case. So Southern California Edison -- which incidentally it's no wonder it's on the best buy list of all of the stock brokerages across the country -- Southern California Edison is not only making a bundle on its subsidiaries, but it got virtually everything they

wanted on the San Onofre plant after a couple of appeals; they got whatever they wanted on a Palo Verde plant of which Edison owns 15 percent. The Commission didn't even hold a hearing on that Palo Verde plant operational cost and plant cost. It gets very favorable treatment at the Commission.

And you wonder why the people in Southern California are squawking? We submit that that, along with the treatment for PG&E isn't quite as favorable, but we shall see when PG&E comes in for an energy cost adjustment.

Incidentally, if you think you got a lot of office calls last month from your gas constituents, wait until next month, when Edison's new request for a 12 percent increase on the electricity side that covers $625 million in more money, half of which is to cover these phony cogeneration contracts they have with themselves. I tell you, the electric customers will join the course. The electric customers will join the course at PG&E as well where future increases are indicated.

I think you have to understand, I heard Senator Roberti mention the law, the law on baseline is the only protection that consumers have that allows an affordable amount of necessitous gas and electricity service. SoCal Gas is going around the state proselytizing that all of the high rates are due to the baseline. That's far from the truth.

If baseline were removed, and you had equal rates, for example, all customer groups within the residential class would suffer a huge increase, some larger than others. So we have to leave that alone.

SoCal Gas never gives up. They're greedy.

Now, with regard to the telecommunication changes that are facing us, I shudder. We have forces on the Commission -- not John, but John's friend Mitchell Wilk, and he listens to Mitch --

(Laughter.)

MS. SIEGEL: Forgive me. If you recall, I took after Jerry Brown in exactly the same way when needed it, but what's happening --

CHAIRMAN ROBERTI: Ms. Siegel, you have a long reputation for being --

MS. SIEGEL: Reticent.

CHAIRMAN ROBERTI: -- nonpartisan.

MS. SIEGEL: You bet.

(Laughter.)

MS. SIEGEL: I'm not political, Senator, as you know.

However, what is happening in the telephone field is extremely worrisome. If you pull the cord on that, as you know, you can't put it together again.

And here we're talking about deregulating services, and maybe even in the near future deregulating local telephone services. God help us if that happens.

I heard a rumor yesterday, and I haven't had time to confirm it, that Pac Bell is chickening out on the whole deal. They're smart. They get a good deal under regulation.

Since deregulation what has happened is that the large business users have enjoyed decreases of 36 percent on long

distance calls and on data transmission calls, while rates for local customers, as you know, as you hear from your constituents, have gone up markedly. Some of it by order of the Federal Communications Commission, which this Commission does not have to follow. We have court cases that relieve this Commission from being preempted by the federal agency.

Some of it, which is just ridiculous, like the inside wiring scam. It is a scam. It's a money making scheme for the telephone company. Where was the Commission? Why didn't they deny that? It's ridiculous.

There are other kinds of services that are being broken off and charged for separately that this Commission is failing to act on.

In sum, gentlemen, what I tell you is that this Commission on a policy basis is ruling in favor of the big guys and socking it to the little guys, and that is why we have adopted a motto this year: "PUC don't stick it to me."

I'm going to present this Legislature with a legislative package because you're the only hope we have to control runaway utility rates. I don't think the PUC is doing an adequate job of regulation. I will help you as much as I can. We need your help.

Thank you very much.

CHAIRMAN ROBERTI: Thank you, Ms. Siegel.

Senator Petris.

SENATOR PETRIS: When that inside wiring thing came up, I called the PUC and registered my own complaint. And I was told

at that time by somebody that our Commission was going to file a protest with the national people, the federal people.

Was that done to your knowledge?

MS. SIEGEL: The Commission did file an appeal with the Federal Communications Commission, and they turned it down and it was dropped.

Senator, I went to Congress and I testified before the House Committee on inside wiring, on the terrible access charges that elders have to pay at the rate of 2.60 a month going up to 3.50 a month, whether they make any long distance calls or not, et cetera. We filed through NASUCA, our national organization, an appeal in court.

Now, this Commission has to be bold and appeal these strenuous federal decisions that impact on the little guy, and I don't see that they're doing that.

SENATOR PETRIS: Are they bound by the wiring ruling, internal wiring?

MS. SIEGEL: Well, they put it into effect that we're --

SENATOR PETRIS: But are they compelled to because --

MS. SIEGEL: No, they're not compelled to. They can act separately and differently.

SENATOR PETRIS: They could have rejected that?

MS. SIEGEL: They certainly could. What they did do --

SENATOR PETRIS: Mr. Ohanian, you weren't there?

MS. SIEGEL: Well, you can change it.

SENATOR PETRIS: You can be a hero and change it now.

MS. SIEGEL: There's nothing to prevent him from changing it now.

SENATOR PETRIS: Maybe he'll make the motion at the next meeting.

MR. OHANIAN: I need two or three votes, Senator.

MS. SIEGEL: Well, you get them. If you're a leader, you can get them. If you're not a leader, you shouldn't be there.

SENATOR PETRIS: Let me ask you one other question on this deregulation of natural gas that's looming. It hasn't been done but apparently it's going to be --

MS. SIEGEL: Partially it has.

SENATOR PETRIS: It has been done partially.

What do you predict will be the impact on the smaller consumer if that goes into effect? Is that going to benefit the consumer or not?

MS. SIEGEL: Well, Senator, it depends on how it's applied. The way it's being applied now is unfair. They're engaging in discriminatory pricing, the Commission is.

If they apply it equitably to all customer classes, which they should, then everybody would share in the benefits and the detriments, and that's the way it should be done.

SENATOR PETRIS: Thank you.

MS. SIEGEL: Thank you, Senators.

CHAIRMAN ROBERTI: Thank you, Ms. Siegel.

Is there any opposition in the audience? Do I hear a motion?

SENATOR CRAVEN: So move.

CHAIRMAN ROBERTI: Senator Craven moves Mr. Ohanian's confirmation be recommended to the Floor.

Any discussion on the motion?

Secretary will call the roll.

SECRETARY WEBB: Senator Ellis.

SENATOR ELLIS: Aye.

SECRETARY WEBB: Senator Mello.

SENATOR MELLO: Aye.

SECRETARY WEBB: Senator Petris.

SENATOR PETRIS: Aye.

SECRETARY WEBB: Senator Craven.

SENATOR CRAVEN: Aye.

SECRETARY WEBB: Senator Roberti.

CHAIRMAN ROBERTI: Aye.

The vote is five to nothing; confirmation is recommended to the Floor.

Congratulations.

MR. OHANIAN: Thank you.

CHAIRMAN ROBERTI: Now you do what we told you.

(Laughter.)

(Thereupon this portion of the Senate Rules Committee hearing was terminated at approximately 3:27 P.M.)

--oo0oo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of February, 1988.

EVELYN MIZAK
Shorthand Reporter

500
9
88
.7

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

Finals

DANIEL E. LUNGREN: OFFICE OF STATE TREASURER

Vol. I

DOCUMENTS DEPT.
FEB 29 1988
SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 112
SACRAMENTO, CALIFORNIA

TUESDAY, FEBRUARY 16, 1988
9:57 A.M.

Additional copies of this publication may be purchased for $10.00 per copy from:

Joint Publications
State Capitol, Box 942849
Sacramento, CA 94249-0001

Please add 6 percent sales tax. Make checks payable to STATE OF CALIFORNIA.

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DANIEL E. LUNGREN: OFFICE OF STATE TREASURER

STATE CAPITOL

ROOM 112

SACRAMENTO, CALIFORNIA

TUESDAY, FEBRUARY 16, 1988

9:57 A.M.

Reported by:

Evelyn Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR JIM ELLIS

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Appointments

ALSO PRESENT

SENATOR BARRY KEENE
Senate Majority Leader

SENATOR ART TORRES, Chairman
Senate Committee on Toxics and Public Safety Management

SENATOR DIANE WATSON, Chairwoman,
Senate Committee on Health and Human Services

GERALD MERAL, Executive Director
Planning and Conservation League

MICHAEL PAPARIAN, State Director
Sierra Club

BEA COOLEY
Friends of the River

CUSHING DOLBEARE, Founder and Chairperson
Board of Directors
National Low-Income Housing Coalition
Washington, D.C.

MARC BROWN, Staff Attorney
California Rural Legal Assistance Foundation

CELESTE CANTU, Executive Director
Imperial Valley Coordinated Housing Authorities

APPEARANCES (Continued)

HOWARD GONG, Fund Manager
California Equity Fund
San Francisco

KAY KNEPPRATH, Northern Director
California Homeless Coalition

IRVING LAI, National President
Chinese American Citizens' Alliance
Los Angeles

JUDY HERSHBERG, California Past President
National Women's Political Caucus
Los Angeles

REVEREND EDWARD PEET, President
Legislative Council for Older Californians
San Francisco

KATE SPROUL, Legislative Advocate
California National Organization for Women

BILL MELAMED, Member
Board of Governors
Municipal Elections Committee of Los Angeles (MECLA)

I N D E X

	Page
Proceedings	1
Opening Statement by CHAIRMAN ROBERTI	1
Opening Statement by CONGRESSMAN LUNGREN	3
Staff Memo	4
Response by CHAIRMAN ROBERTI	4
Pressuring Witnesses	5
Response by CHAIRMAN ROBERTI	5
Points in Memo	6
Background and Qualifications	8
Request for Transcript	11
Response by CHAIRMAN ROBERTI	11
Extracurricular Involvements	12
Work History	13
Political History	14
Immigration Reform	16
Crime Matters	19
Budget Responsibilities	24
Judiciary Committee	24
Permanent Select Intelligence Committee	24
Joint Economic Committee	25
Fiscal Responsibility	27
Pro-Life Position	29
Diversity of Representation	29
Summary	31
Presentation by SENATOR BARRY KEENE, Majority Leader	33
Constitutional Provisions for Filling Vacancies	34

I N D E X (Continued)

	Page
Nominee's Conservatism	36
Treasurer's Discretionary Powers	37
Nominee's Potential Use of Power	38
Voting Record or Issues	41
Conclusion	43
ENERGY/ENVIRONMENT	44
Witnesses:	
GERALD MERAL, Executive Planning and Conservation League	45
MICHAEL PAPARIAN, State Director Sierra Club	48
BEA COOLEY, Conservation Director Friends of the River	53
Questions by SENATOR CRAVEN re:	
Position on Nominee	56
Import of Environmental Matters	56
End Result of Kern Project	57
Position of Congressman vs. Treasurer	57
Presumptions on Differing Circumstances	58
Statement by SENATOR CRAVEN	59
Response by CHAIRMAN ROBERTI	60
Discussion	61
Questions by SENATOR ELLIS re:	
Position on Pamo Dam	63
Need to Understand Specific Problems	64
Procedural Question by CONGRESSMAN LUNGREN	65
Questions of Nominee by SENATOR ART TORRES re:	
Planned Meetings with Senators	65

I N D E X (Continued)

	Page
Mainstream Philosophy	68
Field Poll of '88 re: Environmental Issues	69
Duties of Alternative Energy Financing Authority	70
Solar Power vs. Wind Energy	71
Duties of Pollution Financing Authority	75
'87 Letter from Sierra Club	76
Vote on '81 Dannemeyer Amendment	78
Cost vs. Health & Environment	80
Stance on Clean Air Act	81
Extension of Deadline	82
Vote on California's Proposition 65	84
Luncheon Recess	85
Resumption of Proceedings	86
Questions of Nominee by SENATOR TORRES re:	
Obligation to Inform Consumers of Toxicants	86
Cleanup Obligation	86
Votes on Bills Impacting Drinking Water	88
Vote on HR 5959, '84 Safe Drinking Water Act	89
Vote on '84 Senate Bill 124 Conference Report	90
Right to Federal Remedy for Toxics Victims	92
Adequacy of State Remedies	93
'85 Vote on Chemical Emissions Information	95
California Debt Limit Allocation Committee	98
Chart Depicting Powers of TREASURER UNRUH	99
Division of Money in Various Areas	100
Impression of Briefing Papers	101
Thinking on Use of Discretions	102

I N D E X (Continued)

	Page
Hispanics on Staff	106
Steps Taken to Help Minorities	107
Minority Business Opportunities under Alternative Energy Sources Authority	110
Past Record on Minority Issues	112
Rebuttal by CONGRESSMAN LUNGREN	114
Response to SENATOR KEENE's Presentation	114
Transportation Bond Program	115
Response by CHAIRMAN ROBERTI	115
Conservatism	116
Environmental Concerns vs. Budgetary Concerns	117
Vote on Clean Water Act	118
Vote on Superfund	118
Cleanup of Oil and Chemical Spills	119
Vote on Omnibus Water Resources Bill	120
Black Spot	120
Position on Clean Air Amendment	121
Deadline Extension	121
Record on Environmental Issues	122
HOUSING	122
Witnesses:	
CUSHING DOLBEARE, Chairperson Board of Directors National Low-Income Housing Coalition Washington, D.C.	122
Question by SENATOR PETRIS re:	
Nominee's Voting Record	135
Statement by CHAIRMAN ROBERTI re:	
Discretions of Treasurer on Housing Issues	136

I N D E X (Continued)

	Page
Questions by SENATOR PETRIS re:	
Congressinal Response to Housing Problem	136
Conversions	137
Amount Requested in '87 Housing Act	138
Questions by SENATOR ELLIS re:	
Cause of Decline in Availability	139
Raising of Rents	140
Impact of Rent Control on Availability	141
Impact of Growth Control Restrictions	141
MARC BROWN, Staff Attorney California Rural Legal Assistance Foundation	142
Question by CHAIRMAN ROBERTI re:	
Treasurer as Key Official in Housing	144
General Obligation Bonds vs. Tax Exempt	145
Nominee's Votes on Homeless Bills	147
CELESTE CANTU, Executive Director Imperial Valley Coordinated Housing Authorities	150
Question by CHAIRMAN ROBERTI re:	
Discretion on Rent Control vs. No Control	151
Questions by SENATOR PETRIS re:	
Veto Power of HBCC over CHFA Recommendations	152
Treasurer's Position on Committee	153
Question by CHAIRMAN ROBERTI re:	
Type of Bonds of HBCC	154
Process of the Money from Bonds	155
Discretion on types of Housing	155
Membership of HBCC	156

I N D E X (Continued)

	Page
HOWARD GONG, Fund Manager California Equity Fund San Francisco	156
Question by SENATOR ELLIS re:	
Position on Nominee	160
Statement to Nominee by CHAIRMAN ROBERTI re:	
Votes on Various Homeless and Housing Legislation	160
KAY KNEPPRATH, Northern Director California Homeless Coalition	163
Rebuttal by CONGRESSMAN LUNGREN	164
Fair Housing Bill	165
Position on Synar Amendment	166
Position on Amendment re: Appraisers	166
Questions by CHAIRMAN ROBERTI re:	
Specific Language of Amendment	167
Support for Adminstration-Sponsored Fair Housing Legislation	168
Amendment on Rent Control Limitation	169
Inflation and Housing Unavailability	169
Impact of Illegal Immigration	170
Impact of New Immigrants and Refugees	171
State vs. Federal Obligations	171
Low-Cost Housing for Military Personnel	171
Luthern Towers Project for Senior Citizens	172
St. Mary's Hospital Authority Project	173
Other Senior Citizen Projects	174
Housing Programs and Budget Concerns	174

I N D E X (Continued)

	Page
BUSINESS DEVELOPMENT	174
Witnesses:	
IRVING LAI, National President Chinese American Citizens' Alliance Los Angeles	175
Rebuttal by CONGRESSMAN LUNGREN re:	
Voting for Congressional Salary Increase	180
Appraisal Language requested by Chair	181
HEALTH AND FAMILY ISSUES	181
Witnesses:	
JUDITH HERSHBERG, Immediate Past Chair National Women's Political Caucus Los Angeles	181
REVEREND EDWARD PEET, President Legislative Council for Older Californians San Francisco	183
KATE SPROUL, Legislative Advocate California National Organization for Women	187
Questions by SENATOR ELLIS re:	
Total Membership Position	188
Opening Statement by SENATOR DIANE WATSON	188
Questions of Nominee by SENATOR WATSON re:	
Zero Rating by Various Organizations	190
Tough Position on Various Legislation	192
Reasons for Opposing Votes	194
1985 Vote on HR 7 Bartlett Amendments	195
Priority of Fiscal Concerns	195
Number of Bills Authored by Nominee	196
Catastrophic Health Bill	198
Nonsupport of Women's and Children's Issues	200

I N D E X (Continued)

	Page
Negative View of Social Programs	201
State vs. Federal Obligation	202
Vote on Appropriation Bill	202
Votes on Various Bills	203
View on Abortion vs. California Law	204
Votes on Mental Health	206
Discretion on Health Facilities Financing Authority	207
AIDS Challenge	208
Senior Citizen Challenge in Future	208
Vote on Increasing Retirement Age	209
Vote Against AIDS Funding in '86 & '87	210
AIDS Research Funding	210
AIDS Commission	211
Need for Health Facilities	212
Position on Mandatory Testing for AIDS	212
Testing of Prisoners	213
Testing of Homeless	215
Responsibility for Selling Bonds	216
Vote Against Various Social Reform Legislation	217
Pay Equity Study	218
Equal Rights Amendment	219
Restriction of Debate in House	220
Title 10 Extention	221
Vote Against Money for Community Health Centers	222
Vote Against Various Health Bills	223
Conclusion	223

I N D E X (Continued)

	Page
Additional Witness:	
BILL MELAMED, Member Board of Governors Municipal Elections Committee of Los Angeles (MECLA)	224
Delivery of Petition by SENATOR WATSON	227
Rebuttal by CONGRESSMAN LUNGREN	227
Fiscal Policy Experience	228
Vote on Minimum Benefits under Social Security Act	228
Position on Abortion	230
1984 Civil Rights Act	231
Hate Crime Bill	232
Adjournment of Proceedings	234
Certificate of Reporter	235

P R O C E E D I N G S

--oo0oo--

CHAIRMAN ROBERTI: The Committee will come to order.

This morning we begin hearings into the confirmation of Daniel Lungren as Treasurer of the State of California. These hearings and the subsequent deliberations will be fair and thorough because I can think of few other constitutional offices that have more influence over the lives of us as Californians.

Over the past decade, the Treasurer's Office has become the focal point for State and local finance. Most of the borrowing done by the public agencies must either be reviewed or approved by the State Treasurer. Both the oversight and the operational responsibilities touch every aspect of public finance.

The world of public finance has changed dramatically in recent years. Now most tax exempt financing is used for financing commercial and industrial development, housing, for-profit health facilities, and short-term notes to meet public agency cash flow needs. This means the State Treasurer has changed from being a custodian of the State's bank vault to a public finance broker for both public and private projects.

During earlier hearings in the Assembly, Congressman Lungren indicated that he expected to be judged on his ability, integrity, experience, and commitment to financial responsibilities, and we make that same pledge to the Congressman and to the people of the State of California.

These hearings also will examine, Congressman Lungren, your voting record to determine if it in fact is a legitimate aspect of your duties as far as the Office of the State Treasurer is concerned. We intend to deviate as little as possible from our usual procedures on this Committee.

Let me point out that the questions will be asked by the Members of the Rules Committee. When we deal with a specific subject matter, we invite the Chair of the relevant policy committee to ask questions. Two of those Chairs have indicated a desire to do so. In the area of the environment, Senator Torres will join the Committee, and in the area of health and welfare, Senator Watson will join the Committee for these questions.

The dais is composed of the Members of the Rules Committee, and each Member is entitled to one staff person as well to sit at the dais.

The names of witnesses who have notified us of their desire to testify appear on the agenda. Anyone may testify within the constraints of time and our ability to hear you. Please let the Sergeants know if you wish to testify, and if your name is not on the agenda we will try to place it there. At the end of each day's proceedings, we will have a period of time for open questions and answers, testimony from both proponents and opponents. Please let the Sergeant know. If you'll give him your name, he will then give us your name as well, and we will try to accommodate your wishes.

There are some individuals who are unable to appear and testify on the day their particular subject is being discussed. These individuals will testify on whatever day they can appear.

We will break at noon and resume at 1:30 on each day. In addition, there will be a short break at 4:00 o'clock in the afternoon.

The custom of the Committee is that the Appointee remains at the witness table throughout the hearing. We will leave that to Congressman Lungren as to what his wishes are.

Before we proceed, we're very happy as well to have with us in the audience Mrs. Bobbi Lungren and Ms. Kelly Lungren, Congressman Lungren's wife and daughter. Thank you for being with us and we're happy to have you.

If it were my father, Congressman, he would insist on being introduced, so if you don't mind we'll introduce your father and your mother as well. They're in the audience, too, way in the back.

Congressman, I turn the proceedings over to you to make an opening statement.

CONGRESSMAN LUNGREN: Thank you very much, Mr. Chairman.

I appreciate the chance to appear before this Committee.

I had prepared remarks to make, I used my staff to prepare those, but after listening to your remarks and also after reading some things in the newspaper today, I thought maybe I should deviate from those for a moment and say some things very directly to you and to this Committee.

Sometime ago you and I had a chance to talk. At that time you told me that we would have an open, fair and full hearing, and that these hearings would not be involved with partisanship. I hope that is true. I want to believe that is true.

However, in the intervening time, I've become aware of a memo that appeared to outline the direction that this Committee was to go before I even had a chance to come here. Some who have seen it would call it a script for a political lynching. I hope that's not the case.

I'm not on trial here, as you know, Mr. Chairman, yet a memo appeared, was referred to in the newspaper today, that outlines the way the proceedings are to go, and it refers time and again to the "prosecutors": Senator Torres on energy and environment will assume the role of prosecutor of Congressman Lungren; Senator Petris is to assume the role of prosecutor in the area of housing; you're to assume the role of prosecutor in business development.

CHAIRMAN ROBERTI: You'll find we're very poor prosecutors on this Committee, Congressman.

That was a memo that was given to me by my press secretary. As soon as I saw it, it was dispatched without any further review. You will find that the memo was not going to be followed. It was an advisory memo to me.

I suspect, Congressman, that you have partisan enthusiasts within your staff that will give you advice that you reject, and the issue is whether we follow it or reject it. And I would suggest to you that we have rejected it as we have in all similar situations.

CONGRESSMAN LUNGREN: I hope that is the case, Mr. Chairman.

I must just say, though, that I have received disquieting information, this being one of them: witnesses who have come to me to suggest that they have been pressured not to testify on my behalf.

The difficulty with that, as you well know of course, is if you go to such a witness, they've been pressured not to testify; they're not going to admit that they've been pressured because the very reason they didn't want to testify is because they had been pressured.

CHAIRMAN ROBERTI: All I can tell you is we welcome every witness. We will go out of our way to accommodate any witness that you have. The two names that I saw appear in the paper, frankly, I know one of them; I don't know the other. The one I happen to know I met once, Mr. Hull, and he is encouraged to come here. I think he's an excellent man, a fine man. If he wants to come as either a character witness of yours or a person who can testify how he has worked with you through the years, I welcome it. I view his testimony very highly.

The other gentlemen from the Firefighters of Long Beach, frankly, I've never met. In the paper he indicated that he didn't come here because other members of his union or the State Federation of Labor were opposed to your confirmation.

Well, that's life in the big city, Congressman. People oppose your confirmation, and you can't complain because people are opposed. They're not opposed because I happen to be here or other Members are here, and we can't complain about that, either.

CONGRESSMAN LUNGREN: Do I have an opportunity to make an opening statement?

Mr. Chairman, you know that was not the point I was making.

There have been people who wished to testify on my behalf who are not testifying because of messages that have been sent to them. I don't know where they came from. I don't want to believe they came from this Committee, but that's disquieting particularly in light of the memo that did appear.

I'm happy to hear that you have discounted the memo. I hope that the points in the memo are also discounted, such as: rather than to see with an objective analysis what my record is, the goal is, to quote from Page Three of the memo:

> "To elicit from Lungren his philosophy of policies so as to demonstrate he is an ideologue clearly out of pace with all Californians."

Another comment in the memo is:

> "The goal of this section is to demonstrate that Lungren, despite all other characteristics, is an unyielding ideologue; a rigid person who hardly can represent all Californians."

Now, Mr. Chairman, I'm used to hardball politics. I understand hardball politics. I understand how you deal with things on the up-and-up. And I'm willing to go anyplace,

anytime, anywhere to debate any Member on any subject that comes before you. I'm willing to do that up-front.

I am, however, not willing to be subjected to a situation in which I am presumably the defendant in some sort of courtroom. I'm not on trial here. I am the person who was designated by the Governor of California, under his right under the Constitution, to take the place of Jesse Unruh because a vacancy occurred as a result of his death.

I'm perfectly willing to come before you and to answer any and all questions; however, I hope that what you told me in the past will in fact turn out to be the case: it's going to be a full, fair, open hearing without partisanship.

You must admit, however, that one in my position, to see a memo like this, to hear some of the things that have occurred, would have to have some questions and have to resolve that in my own mind.

And I would say this: I'm not on trial here. If anything is on trial here it's the process. It's to see whether or not this institution can fulfill its obligations as the Governor has fulfilled his without turning this into some sort of trial with prosecutors and defendants.

I've never been a defendant in my life. I've never been charged with anything in my life. My only experience in a courtroom is representing others. I understand how you do it. If you want to do that, I can do that, but I don't think that's the appropriate thing.

So as I say, I don't want to believe some of those things, and I hope that's not going to be the case. But there has been evidence to suggest otherwise.

But now, after we have discussed that, Mr. Chairman, I'd like to just discuss who I am, since people don't seem to know who I am, and comments made by you and by others question whether or not I am capable of being able to represent all the people of this State of California.

So let me just say at this time, if you want to know who I am or who anybody is, I suppose you go back to the beginnings and look at their parents and their grandparents. My mother lost her father at a very early age. My mother worked three jobs in the city of Chicago in order to keep her family together. My mother took her kid brother to a county hospital in Cook County when he was suffering from a terrible illness. She did that on her own as a teenager because there was no one else to turn to. She worked three jobs to help keep her family together; not her family, not her family of her children, but her brother and her sisters.

My father lost his father at a young age. In fact, he moved to California because of the difficulties of his own father's health. Moved to California in hopes of trying to find a cure to his health problems. After six years he died, and my father in the middle of high school moved back from Long Beach, California to Sioux City, Iowa to finish his high school years. He was therefore growing up in part of that time as a child, an only child, in a single-parent household.

My parents had seven children; I'm the second oldest. I've got two brothers and four sisters. No one ever suggested in our family that the boys were better than the girls; that the girls were not to aspire to the same things the boys were. In fact, we were all told that we'd have to make it in this life, that we had a contribution to make to society, that we had to assist others as others assisted ourselves, and that the girls in the family should be prepared to make their own way, to make their living in this world longer before a lot of people started talking about women's rights. That's how I grew up.

I had a father who's a doctor. Some suggest that because he was a doctor and not in the lowest economic circumstance, somehow I'm incapable of being the Treasurer of the State of California.

Let me tell you, my father's an old-fashioned doctor. Many is the night I woke up when my father was out making house calls at two, three, four, five o'clock in the morning, going to some of the toughest parts of Long Beach to treat people because they needed help. Having people ask him the next day, "Why did you go in that area of Long Beach? Don't you know it's dangerous there?" And his response was, "I have patients who are sick. Patients who need help."

Yes, some like to say, "He was the doctor of Richard Nixon. He also was dealing with the carriage trade." Let me tell you, when my dad took care of Richard Nixon when he was almost dying of phlebitis, I remember the call Richard Nixon made to him. He said, "I understand why you may not want to treat me.

It may be a difficult thing to do at this time." He was not someone well regarded at that particular time.

My father said, "You're sick; you're my patient. Of course I'll treat you."

I've seen him take care of people who never paid him, never had any thought of paying him. I've seen him taking care of people who paid him as well.

As a child, I used to go with my father into the hospital and make rounds, talk with the elderly and talk with the sick and see what their problems were. I thought I was going to be a doctor. I wanted to do the same things that my father did. I ran into organic chemistry. Some of you may know what that means.

(Laughter.)

CONGRESSMAN LUNGREN: So, maybe it was a mistake, but I became a lawyer. Some would say that as a lawyer, you're not qualified to be Treasurer of the State of California. I don't understand that.

I attended Catholic schools here in California. I attended public schools in the summer to get extra credit. I went to the University of Notre Dame; I graduated cum laude. I went to USC Law School. I was there for a year and decided I wanted to transfer to Georgetown University after I got married.

Some on your staff said they've got to look at my transcript. I said, "Why do you want to look at my transcript?"

"Well, someone has suggested to us that there is some untoward reason why you left USC and went to Georgetown."

Now, I gave you my transcript. I guess you didn't find any untoward reason, but I can't understand that kind of a question, as if somehow I could get into Georgetown University Law School if I left USC under some cloud. And I hope if you've looked at my transcript you've seen that it's okay. I was told that if I didn't turn it over, they'd be subpoenaed. I hope that you've taken a look at the transcript, and my college years, and my law school years and found them all right.

CHAIRMAN ROBERTI: Congressman, first, your transcript is a very good transcript.

CONGRESSMAN LUNGREN: I appreciate that. That wasn't in the report.

CHAIRMAN ROBERTI: No, well, it's in the report now.

Number two, as you know we have a constitutional duty --

CONGRESSMAN LUNGREN: I understand that.

CHAIRMAN ROBERTI: -- to pursue your record. Frankly, having to look into somebody's personal background or their academic background is something that I don't enjoy doing. I wouldn't want somebody perusing mine simply because I value my privacy.

CONGRESSMAN LUNGREN: I'm glad to hear that.

CHAIRMAN ROBERTI: But we have an obligation to the people of California to in a way act the same way as your opponent would act.

Now, that's not because we view you as our opponent or your opponent, but it's because we are taking the place of an electoral process. In an electoral process, your opponent does

all the things that have to be done so the public gets a good description of who you are and what you're about and what your background is.

But we don't have an electoral process, and yet we are confirming, or not confirming, a Treasurer to one of the highest positions of our state absent that kind of critical review. Therefore, we have to review, and we have to act a devil's advocates because that's our obligation under the Constitution, we feel, to the people of the State of California.

It may all come out beneficial to you, and it may not, but the fact of the matter is we're trying to pursue our duty and trying to ferret out information as part of our duty. And it's distasteful because going into people's private background always is distasteful, and where we have found positive things, as your transcript -- which was positive, I'll be the first to say --

CONGRESSMAN LUNGREN: I appreciate that. I looked in the record of the report from the Senate Research Committee and I didn't find that. I appreciate you looked at it after receiving it and have put that in the record.

I went to the University of Notre Dame. I went to law school at USC; I went to law school at Georgetown University.

In addition to wanting to be a doctor, I wanted to play football at Notre Dame. I came up a little short there, so I involved myself in some other extracurricular activities. The one thing I was involved in longer than any other, even longer than political life on the campus, was something known as the Neighborhood Study Help Program. I tutored inner city youths

every week for two to three years while I was at the University of Notre Dame.

I was involved in something known as CONE at that time, Committee on Negro Enrollment. It was an effort to try and get more minorities into the University of Notre Dame and try and show them that we had the beginnings of some scholarships. So when I was home at different periods of time in the Los Angeles area, I used to visit high school students who were minorities and might want to go to the University of Notre Dame to tell them how we were trying to get a larger number of minorities there, how the campus was open to that, and how Father Hesburgh was committed to doing that.

Those were two of the things I did while I was in college. When I was in law school I was married. I worked on the Hill; I worked for two United States Senators. My wife worked for Bob Finch both at HEW and at the White House.

It probably was the best education you could have. We got to see how politics in Washington worked from both ends of Pennsylvania Avenue. It perhaps was a better education than law school was, even though law school was important as well.

When I finished there I worked for a year at the Republican National Committee. Following that I returned to California. I worked for Bob Finch for six months as he was trying to make a decision as to whether he would run for Governor or whether he would run for Senate. He decided not to run that particular year, and I decided at that point in time to join a law firm that was not politically identified with the Republican

Party. I wanted to make sure that I could be a lawyer in my own right, not any question of politics involved, and I joined the law firm of Ball, Hunt, Hart, Brown and Baerwitz, the Brown being Pat Brown, the former Governor of the State of California.

I was a trial attorney for more than five years during that period of time, primarily doing defense work in civil matters, occasionally plaintiff's work, a little bit of criminal work as well.

I ran for Congress in 1976 and I lost the very first time. I lost against an incumbent. I lost by something like 2,866 votes out of 200,000. I never think about that, except I know exactly every precinct that I lost and how much I lost it by.

I didn't complain. I didn't complain about the fact I lost. I tried to figure out what the people were telling me. What was it I hadn't done that I needed to do to be elected? One of the things it told me was I need to get to know the people better. So every day for almost two years I would -- at least in the last year, although I did some of it in the first year thereafter -- I would give a speech before work, go out and give a speech, or go to some group at lunch time. When court was over or my office hours were over, I'd put on my walking shoes and I'd walk from that point in time until it got dark, then I'd go home with my family and prepare for court the next day.

On weekends, my family would walk with me. My daughter was less than two years old at the time, so she'd be strolling along. I discovered one thing, it's a key for all of us who are

politicians: if you want the door to be opened and not slammed in your face, give the brochure to your children and have them walk up to the door with you. It worked out very well.

But I walked through a whole neighborhood. Was told when I got Hawaiian Gardens, "No Republican can carry Hawaiian Gardens." They were different. They were mostly Democrats. They were minorities. And I said that was wrong. I made sure that my campaign walked every single street of Hawaiian Gardens. I walked Hawaiian Gardens a number of different times to talk with the people, to find out what their concerns were, to find out what needed to be done to represent them as well as representing other people in my district.

I won in 1978 by 10 percentage points. I've been elected ever since. Five times elected, the last several times with 73 percent of the vote.

I find it ironic that some criticize me for having district that's too Republican and, as has been suggested in the press, too White.

I didn't cut that district, Mr. Chairman; you folks did. I was told that you -- now, maybe you can tell me whether this is true or not -- I was told that when the drawings were brought to you of my district and Glenn Anderson's district, that your comment supposedly was, and this got currency in Washington and may not be right, that it "looked like two pretzels making love." I mean, it was the strangest looking district you've ever seen.

CHAIRMAN ROBERTI: I don't remember if that was my comment, but it's probably --

CONGRESSMAN LUNGREN: Well I'll give it to you.

(Laughter.)

CONGRESSMAN LUNGREN: The point is, I find it ironic that somehow I am supposed to be considered unqualified to be Treasurer of the State of California because of the way my district is cut. I didn't ask you to cut the district the way you cut it.

When I was first elected, my district was 56 percent Democratic. My opponent held a party in which they celebrated the fact they now had a safe Democratic district. I spoiled the party.

But the point is, I went out and I got Democratic support. I got minority support. I got Independent support because I thought it was important in my particular district.

I've served in the Congress since that period of time. I've served on the Judiciary Committee every year that I've been there. I've been on the Immigration Subcommittee for eight of those years, the ranking Republican for four of those years. I dealt with the issue of refugees and immigrants.

And I'll just tell you, Mr. Chairman, at least as far as the perspective in Washington, D.C. is concerned, there is -- there are very few groups that have less political clout than newly arrived immigrants and refugees. People are complaining about the amount of money that is used to help resettle refugees. They're talking about the various strains on the social services programs because we have immigrants coming to this country.

And perhaps the best description I can give you of what I did was a headline that appeared in the Long Beach Press Telegram one day as the result of a town hall meeting I had discussing immigration and refugees, and the headline was: "Lungren Hit From Left and Right."

I suppose that meant that I was doing something right on that particular issue. I was trying to carve out a policy that protected interests of some of the people in our society that are little protected in a way that made sense and in a way that was practical. That means in a way that got a majority of the votes in the House and the Senate so we wouldn't just be giving good speeches, wouldn't just be talking about sensitivity; we're trying to do something about it.

When I went back to Congress immigration was an issue. I don't know why it was an issue. I found walking in my district, town hall meetings, or coffees in my district, people brought up immigration. It was the fourth major issue.

People are always talking about crime. They're always talking about national defense. They're always talking about the economy. But there was this fourth issue that just was below the surface of the top three, and it was called immigration.

I was not an expert on immigration law. I never practiced immigration law in my life, but I knew something had to be done and I decided on my own to get on the Immigration Panel and try and do something about it.

I immersed myself in that law. I found out what it was and what it wasn't. I discovered the intricacies of that law. I

discovered, first of all, that the Immigration law was being treated in a strange way for someone from California because everybody on the Panel was not from the West; they were from the East. They were from New Jersey. They were from New York. They were from Pennsylvania. They still thought most immigrants were coming into New York Harbor under the gaze of the Statue of Liberty.

And yet we knew tremendous changes were taking place in our own state. We were where the action was, but that wasn't reflected in the Congress of the United States. And as much as I love the Congress of the United States, there does seem to be at least one major problem: oftentimes we're about 20 or 30 years behind the curve, and we were on that issue.

So I set upon myself not only learning about Immigration law, but educating others about Immigration law and the realities of immigration. I spent eight long years doing that until finally we passed the Immigration Bill in 1986.

And I can tell you as I stand here, we would not have had, we would not have had a legalization program for the undocumented aliens if I hadn't supported it. I talked to many, many conservatives both on the Democratic and Republican side to support that bill. I refused to support a bill that didn't have that in it. I said, " As much as I think we need to close off our borders from illegal immigration, as much as I think we need to have employer sanctions," which was not a favorable position in the business community, "it was important that we had as part of it legalization."

I worked for that for a long period of time, Mr. Chairman.

Before I even went to the House of Representatives, as a lawyer I did pro bono work, going down to Camp Pendleton and trying to give some courses in elemental, or I call it survival law to the immigrants who were at Camp Pendleton. I did pro bono work on a regular basis, giving free legal counseling to people at the community colleges in my district. I attempted to go out and speak to young people in colleges and high schools about the law, pro bono, because I thought it was important that lawyers do that type of work.

Mr. Chairman, in addition to working on immigration and refugee matters, I worked as hard as I could on crime matters. I notice the report, for instance, gives the shortest period of time and attention of all the issues in there to the area where I did most work. Perhaps it's an oversight.

But perhaps to give you a better idea of what I did, I might just tell you. When I went to Congress, one of the first things I was confronted with as a member of the Crime Subcommittee was a hearing we had at which former Senator Roman Rusk of Nebraska and former Governor Pat Brown of the State of California appeared and testified on behalf of the need for us to change drastically the Criminal Code of the federal government.

As you may recall, Pat Brown a decade or so before that, at the request of then President Lyndon Johnson, had headed up the Brown Commission, the sole purpose of which was to study the state of the federal Criminal Law and to make recommendations for

change. They made those recommendations in a massive way and suggested we actually have a recodification of the federal Criminal Code, such as we've had a recodification of criminal codes in many states of the Union. And they talked about the need for that.

And again I began to be engaged in it. I had never practiced a lot of criminal law; I practiced some. I'd really never practiced criminal law on the federal level, so I had to educate myself as to what we were talking about.

I worked on that Subcommittee with the Chairman of the Subcommittee at that time, former Congressman Robert Drinan. We worked hard to try and create a recodification of the Criminal Code, and we were unsuccessful.

As you know, Father Drinan left Congress. Others gave up on the idea of having a recodification.

I didn't give up. I thought that perhaps instead of a recodification, we could have a substantial change of the substance of the federal Criminal Code and not worry about an absolute recodification because that was a problem with some people. And so I worked; I dedicated myself to doing that.

You have to recognize, Mr. Chairman, you have partisanship here. We have partisanship in Washington, D.C. I'm a member of a body that sometimes gets a little lonely out there: Republicans in the House of Representatives. We haven't controlled there since 1953.

There's a tendency to get used to being in the minority and think you can never win. There's another thing that you can

do, which is to try and figure out how you do win. How do you bring issues to the Floor? And I set about doing that on the Criminal Code Reform Bill. And I banded together with a number of other Members to try and bring that to the attention of colleagues on both the Right and the Left, both Democrats and Republicans, on a regular basis.

We never knew whether we'd have an opportunity to bring it up. We had a meeting in the Oval Office with the President of the United States, Ronald Reagan, both the Senate Committee and Subcommittee and the House Committee and Subcommittee on that issue. The President said, "This is the time for us to pass the bill." This was the beginning of 1983.

And right then and there, both the Democratic and the Republican leadership in the Senate said, "Mr. President, we're going to start working on it tomorrow. We're going to have a meeting tomorrow of our committee, and we're going to figure out how we're going to deal with it."

From the House came the response, "Mr. President, we do things a little differently in the House of Representatives. We break them up into constituent parts, send them to the various subcommittees, and it takes longer to deal with them."

The President said at that meeting, "I don't care if that's the way you do it as long as you do it."

Well, what happened? The next day the Senate had their meetings, outlined their plan, and within a short period of time were processing the bill. The bill passed out of the Senate with a vote of something like 93-1.

What had happened after 53 weeks in the House of Representatives, 53 weeks after we had the meeting with the President? The bill had not been broken up to its constituent parts and even sent to the subcommittees yet. We got -- we began to get the drift that maybe it wasn't going to go anywhere.

So we tried to figure out how we could work within the bounds of the legislative process to get that bill up. And I worked for over two years doing that, and finally in October of 1984, I offered a motion of recommittal on a CR, a Continuing Resolution -- one of those behemoth spending bills that we have that had already been opened up to a whole lot of other things -- I offered the Comprehensive Crime Control Act of 1984.

We managed to pass it. I could tell you a story about that, how as the vote was ahead when we first started out because we had more of our people on the Floor than the other side did, and how it closed, then we went ahead, and how somebody tugged at my sleeve when we were tied at 100-100 and said, "Dan, savor this moment. This is as close as we're ever going to get." I began to savor the moment. And then suddenly we began to go ahead, and we went ahead and we won. And as good Republicans in the House of Representatives, we did what we naturally do: we hugged one another and said, "What do we do now?"

We weren't sure what we did with it because we didn't expect to pass it. We managed to work with the White House; we managed to work with Democrats in the United States Senate to pass what has been called by both Strom Thurman and Ted Kennedy "the most far-reaching change in the federal Criminal Code in the history of the United States."

I'm proud of that. I'm proud of the fact that the State of California gets more money as a result of that than any other State in the Union. We put a forfeiture provision in that Code that allows us to go in after the bad guys: the drug dealers, the major crime figures in the United States. We can attach their assets. And the presumption is that those assets flow from illegal activity. And as a result, they're to be held by the court pending the outcome of the trial.

As a result, we're able to go after the bad guys. We're able to get their boats. We're able to get their cars. We're able to get their bank accounts. We're able to give that money to the people of the United States and the State of California to go after more drug dealers. We put a provision in there which said if State and local government work with the federal government in apprehending them and getting these assets, they State and local jurisdictions get to share in them.

The County of Los Angeles gets more money than any other entity in the entire United States as a result of that provision. It doesn't cost the taxpayers one dime. I've been told by the Sheriff of Los Angeles County, one of his Deputy Sheriffs, that they have something in the neighborhood of 22 drug officers that are paid in part or whole by the amount that goes there, that they're able to pay informants from money that doesn't come from the taxpayers but comes from other bad guys.

Now, I happen to think that's a fiscally responsible way of putting more money to the anti-crime effort. And yet that bill would not have passed if I hadn't worked on it for two solid years, not knowing whether it would ever be successful or not.

Mr. Chairman, there's been some discussion about whether or not someone who has been working in the area of the Judiciary Committee has an ability to deal with budgets, has an ability to deal with fiscal issues, has any experience.

Mr. Chairman, I think some people fail to understand how we operate in the Congress. The Judiciary Committee has the responsibility for the budget of the Justice Department of the United States. We have the responsibility for the budget of the DEA, for the FBI. We have the responsibility for the INS. We have the responsibility for the courts of the United States and the prison system of the United States. We have the responsibility for overseeing line by line the budget of the Judiciary Committee, which amounts to something in the neighborhood of $5.3 billion annually. We do that. I've done that now going on ten years. I've had chief responsibility in the area of the INS.

Additionally, for the last year, more than a year, I've been on the Permanent Select Intelligence Committee of the United States. To be on that Committee, you are nominated or you're appointed by your leadership, but your leadership would not appoint you if there were objection by the leadership of the other side of the Aisle. We are one of a handful of Members of Congress who are allowed to see the biggest secrets the United States government has. We are the Committee to which Oliver North should have given information and the CIA should have given information over the Iran-Contra affair. We are the Committee that receives information now on a regular basis from the CIA,

from the DIA, from the FBI, from all the top intelligence operations of the United States government. We are the Committee that judges their budgets.

I am prohibited by law and also by the rules of the House from telling you how much money specifically we deal with, what programs we deal with, what we may have cut, what we may have increased. But I am allowed to say a couple of things. One is, our budget authority is in multiple billions of dollars annually.

The second thing I can say and tell you honestly is that we spend more time cutting than we spend time increasing. I would say most of our time is spent cutting, because I've seen some of the reports that suggest I've never met a battleship I didn't like, that suggest I've never voted against Defense, that suggested that I hold that up on an altar.

That's not true, Mr. Chairman. I spend a good deal of my time looking into the national security interests of the United States, the top intelligences apparatuses of the United States, and making judgments as to where we're going to cut, even though I can see in my own mind that given them more money would give us more protection, because we don't have enough money to do everything we want to do or can do.

Those are not easy decisions. Those are not simple decisions. They're not decisions you actually enjoy doing, but they have to be done. And I've done that, Mr. Chairman.

The other point I'd like to make is that for four years I served on the Joint Economic Committee of the United States

Congress. That's a Joint Committee of both the House and the United States Senate.

If I had ever planned to give a postgraduate degree in Economics in order to take the Treasurer's job, I couldn't have gotten a better education than the Joint Economic Committee. We range all over the map in terms of our scope. We are the ones charged with the responsibility of responding to the President's Economic Report. We're the ones responsible by law for receiving information from the top fiscal and other economic offices of the United States government. We're the ones called for by statute to receive the unemployment information, to see whether or not it is being gauged properly, to see what information we can glean from those unemployment statistics as to guide us in economic policy. We're charged with the responsibility of putting out an Economic Report on a yearly basis.

Mr. Chairman, I did that for four years. We studied questions of infrastructure. We studied questions of industrial development. We studied questions of tax policy. We studied questions of budget. We studied questions of the relationship between local, State and federal government. We studied questions in terms of entrepreneurship and capital development. We did all of those things.

Mr. Chairman, I would suggest to you, Mr. Chairman and Members, that in fact the types of things the Treasurer of the State of California has to respond to deal with those. When you're talking about bonds, you have to know how the bond market views California. You've got to have the ability to look at and

talk about and converse: in the question of infrastructure, the question of unemployment, the question of employment, the question of education, the question of training of your workforce, the question of the makeup of your population, the makeup of your workforce, whether your economy is rising or whether your economy is going down. What is the employment population ratio? Why is that important? What is the age of your workforce? Those sorts of things.

And we did that on a daily basis for over four years.

Mr. Chairman, I would say this. It seems to me to be Treasurer of the State of California, one would want someone who is fiscally responsible. And I would say: look at my record. Don't take my word for it. Look at the National Taxpayers' Union that rates every single vote that has a financial impact in the federal government, whether it's military spending or social spending. And every single year I've been there I have been rated one of their fiscal watchdogs. I've received their Taxpayers' Friend Award.

I would happen to think that one of the things you would want to do is have a Treasurer who is concerned about the cost of servicing the debt, because we know there's going to be a debt there. We may fight it on the federal level and the State level, but you're going to have to service it at some point. And on the federal level what I attempted to do was to look into other ways, innovative ways, that we might reduce the cost of servicing the national debt. And I looked at the question of indexing Treasury Bonds, something that's done in England, something that's done in

Israel, something that's done in a number of other countries. Not to have us do it with all of them, but to have a starter project, not less than five but more -- no more than 50 percent of the long-term bonds of the United States government be on an index basis. And I did it not only because I thought it would cost less money to the federal government, but I wanted to see if we could create an instrument that was important in terms of the pension funds of America.

And in the hearing that we had, Mr. Robert Monk, the former administrator of the Office of Pension and Welfare Benefits Programs, strongly supports the concept. He said it would do a number of things. It would provide the best investment you could make for the pensioners of America, guaranteed by the federal government. Secondly, it would protect them against the ravages of inflation; that is, having their assets and therefore their payments lost -- suffer a loss of purchasing power. And thirdly, there'd be a bid market for it as far as the federal government was concerned.

It seems to me, Mr. Chairman, a Treasurer should be diligent on behalf of those that he represents. I've tried to explain to you what I did on the part of immigrants and on the part of refugees. And what I did, I hope, on behalf of all people of California in terms of the Crime Bill.

And I won't quote myself. I'll quote the publication Californians in Congress, a nonprofit organization that said last year,

"Lungren has won the respect on Capital Hill for being a capable and hardworking Legislator. He ranks among the ten most effective Members of the California Congressional Delegation."

Fourth, Mr. Chairman, it seems to me a Treasurer should be committed to follow the spirit as well as the letter of the law. Some have brought up questions about whether because of my strong pro-life position, that would interfere with my ability to be able to facilitate bond sales for hospital facilities.

I would say, Mr. Chairman, I don't think that should be a problem, any more than having an Attorney General who doesn't support the death penalty given the responsibility of carrying out the law of the land of California. I've heard that argued many different times, and I think we have seen that the Attorney General has said that his office can fulfill that mandate even though he disagrees with it.

I happened to have looked at that issue, and I have determined that the law would not allow me in that particular circumstance to supersede with my judgment in those respects. I wish the law were different; I really do. I wish the Legislature would change the law on that, but the Legislature has not deemed it appropriate to do so.

I will follow the law. I will follow the letter of the law. I will follow the spirit of the law.

Also Mr. Chairman, it seems to me a California Treasurer should be capable of representing the full diversity of

California. I mentioned the immigration issue for a couple of reasons. One is that even though my hometown of Long Beach, California has the largest number of Cambodians anywhere in the world outside of Phnom Penh, the largest number of Southeast Asians are not in my district. They're in other districts. They're in Orange County; they're in Los Angeles County, outside my district.

I did so also because I have very little agriculture in my district. I have agriculture on top of the Seal Beach Naval Weapons Station land. I've got agriculture under the high tension wires as some areas do in this state. I have agriculture on slide land over on the Palos Verdes Peninsula. But by and large, I don't have any agriculture.

Yet when I was dealing with the immigration issue, it became important to me to understand that California agriculture was impacted tremendously by immigration law and by prospective changes in immigration law. And I went out to try and understand California agriculture. I went up to Fresno and went to some of the farms. Got down on my hands and knees to see how they girdle, or whatever they call that, the vines, and why it was a labor-intensive activity. I tried to talk to people at canneries. I tried to talk to people to understand why they believed they had particular needs and why it would be impacted by immigration law. Not because it was going to really benefit me in my district, because nobody lived in my district that had agriculture. But because it was important to my state.

Finally, Mr. Chairman, I would just say this. Every single day that I go to work in the United States Congress, I am addressed as the Congressman or the gentleman from the State of California. On the Floor of the House I'm not called Dan Lungren, or Mr. Lungren, or the attorney, or the fellow from the 42nd District. I'm addressed as the Congressman from California, the gentleman from California.

We do that because it tends to create at least a veneer of civility in dealing with one another that might otherwise be ripped apart with tough debate, but we also do it to remind ourselves who we represent. We don't represent ourselves so much as we represent the people in our district. But we represent more than the people in our district. We represent all the people of the State that we're privileged to be elected from.

Additionally, we represent all the people of the United States because we are in the United States House of Representatives. I understand that. I've attempted to follow through on that. I've attempted to be very serious about that.

Mr. Chairman, I take my job as Congressman of the United States very, very seriously. I do not easily give that position up, but I would like to be Treasurer of the State of California because I think I can be of some service to the people of the State of California.

I think it is a tremendous opportunity for me or anybody else to be one of the leaders of this great state at a time when I believe we are beginning to emerge to a true leadership position in the entire United States. Just as the Congress often

lags 20 or 30 years behind in terms of its observation of ideas, or observation of reality, oftentimes an emerging political belief, emerging political movement, or even a State takes a long period of time to be recognized for its true greatness.

I happen to think California's on the verge of doing that. I think we have an opportunity to lead this country. I'd like to be a part of leading this country, and I would like to be a part of it working with those of you in the State Senate as well as those in the United States -- as well as those in the State Assembly.

I think that I have learned to work with Democrats as well as Republicans, liberals as well as conservatives on some pretty tough issues when other people left. Sometimes you take tough positions because somebody has to do it. I've tried to do that.

I'm willing to stand on my record as long as everyone is willing to judge my entire record. And I'm willing to answer any and all questions of this Committee at this time and the rest of the week.

Thank you very much, Mr. Chairman.

CHAIRMAN ROBERTI: Thank you very much, Congressman.

Are there any questions?

We invited the Majority Leader and the Minority Leader to make a presentation. Senator Maddy deferred to Congressman Lungren. Senator Barry Keene would like to make a presentation.

We asked Congressman Lungren how he would like to handle his witnesses, and if I'm not correct, you'd like your witnesses at the end, which is fine with us.

So, we will proceed with opposition witnesses, and we will conclude with proponents.

Senator Keene.

Senator Petris for a question.

SENATOR PETRIS: What is the Chair's plan for -- I know you asked for questions, but I don't know whether it's before --

CHAIRMAN ROBERTI: After Senator Keene, we'll break it down by subject matter, the various duties of the Office of Treasurer, and also a portion of it, one of the hearings, for general background as well.

SENATOR PETRIS: I'm thinking about the Committee's questioning of Congressman Lungren.

CHAIRMAN ROBERTI: Yes.

SENATOR PETRIS: Would that be as we go along, or wait until there's some information developed?

CHAIRMAN ROBERTI: I quite frankly would prefer it as the witness comes up so we can hold it to various subject areas, but we've never followed a rigid rule.

If you would like to ask the Congressman questions, fine. I think we would expedite matters if, as we bring matters up by subject, we try to zero in on questions at that point.

SENATOR PETRIS: Thank you.

CHAIRMAN ROBERTI: Senator Keene.

SENATOR KEENE: Thank you, Mr. Chairman and Members. I'll take about five minutes, perhaps a minute or two more than that, but not much more.

I appreciate the opportunity to speak today because I want you to understand my motives in being so vocal in opposition to the Nominee's confirmation. The press and local lore seem to have categorized me as the "Designated Dan Basher" pursuant to my job as Majority Leader, and that's not the case.

My apprehensions are genuine and they outweigh whatever political theater might be involved.

However, I wish to comment on one point concerning the Committee's proceedings, and that is that the Nominee's efforts to shift the burden of persuasion from the Nominee to this Committee is tactically odious. To discuss the Nominee's partisanship is not a partisan act. It is material to the Nominee's ability to discharge his duties. That's something that I would submit for consideration to this Committee at the outset.

Now, there are five points to my argument. It's easily understood. It is not a partisan argument. It's centered around what I hope is a calm and logical construct. It has to do with an equation that's in and of itself: the power of the Treasurer's Office, the power of the Treasurer's Office, plus the record of the Nominee are equivalent to a policy risk to California. That's what I believe this hearing ought to be about.

My first point concerns our responsibilities as Senators with respect to the intent of the California Constitution, and the first point is this. The Constitution clearly seeks to avoid the replacement of an officer elected by the mainstream statewide with someone holding narrow or extreme views.

Now, think about it for a minute. The California Constitution goes quite far to assure that an elected constitutional officer is replaced by someone fairly reflecting the mainstream electorate.

The provisions for filling a vacancy in a statewide constitutional office could have called for the Governor to appoint a successor, and he or she would take office with no requirement of legislative participation. That's certainly fairly typically done with respect at least to line position. Now that is not the case, despite the Governor's usual protests, over any legislative attempts to independently assert itself.

The provisions could have taken the more familiar route of confirmation by calling upon the Senate alone to advise and consent. That's fairly typical, but that's not the case either here.

Instead, these most extraordinary constitutional provisions for the selection of a successor require the participation of both Houses of the State Legislature. Why is that? Why is that? There can be but one purpose, to assure the selection of someone approved by representatives of the broadest distribution of the electorate: Legislators of both Houses who in the aggregate most accurately reflect the mainstream of California. That's why that provision is constructed as it is.

Now that brings me to my second point. Based on his voting record, colleague evaluation in the letter that you received from some Congresspeople, his public positions and his reputation, and to some extent his own admissions in the press,

the Nominee's extreme views reflect the values of a narrow segment of the total electorate.

Now, Mr. Chairman and Members, I certainly don't begrudge the Governor his right to appoint fellow conservatives whenever the chance arises. Those who argue that the Appointee should share the philosophy or the part of the previously elected incumbent are probably politically deranged. It's not in the cards. We know that.

Nor need I comment at this point on the Governor's propensity to discover key Appointees in his own small circle of friends, or even in one family. Cronyism is generally a venial sin, all other factors being equal.

But I am compelled to observe that Mr. Lungren is not just another conservative and not just another Long Beach buddy. His history displays a single-mindedness unable to wield the power of his office in the interest of all Californians.

What's the evidence of this? He votes the Party line 90 percent of the time; 20 more often than even his fellow Republicans in the House. On those occasions when he breaks with the Republican leadership, does he move toward the middle? No. It is to ally himself with splinter groups like the Conservative Opportunity Society.

Now last year, the Congressional Quarterly Newsletter rated him one of the four most conservative Members of the House; one of the four most conservative Members of the House. That's 99th percentile. That's pretty wonderful, 99th percentile. Hardly a reflection of mainstream thought.

Now, I can't help Mr. Lungren with organic chemistry, but I can help him with a mathematical calculation that puts him in the top one percent of conservative thought in the House of Representatives. That's on the record.

It is contended, however, that his single-mindedness really has no relevance to the chiefly clerical tasks of the Treasurer's Office. Let me remind this Committee that nothing could be further from the truth, and that gets me to my third point.

My third point is that the very substantial powers of the Treasurer's Office are largely discretionary. They're largely discretionary and they therefore require in their exercise reference to some guiding principles.

Mr. Chairman and Members, we have in the past decade or so, created an enormously powerful office for the Treasurer. This was done not in response to some sophisticated management plan for public administration, or as a strategy for new wave investment, but entirely in reaction to the overwhelming personality and the political acumen of Jesse Unruh. A former dusty clerical post has become a pivotal investment point in our national economy, and what comes forth from that bully pulpit is of concern to all Californians.

As Chair of the Pooled Money Investment Board, the Treasurer has the power to influence how and where California's surplus funds are invested. The financial buzzards roosting along Capital Mall are not here to watch the Sacramento Kings play basketball. They're here because they want a piece of that

$210 billion that we invested last year and which we invest every year.

The Treasurer sits on the 13-member PERS/STRS Board and the subcommittee that decides how and where to invest pension funds.

The Treasurer has broad power to decide not only how and when, but whether to issue General Obligation Bonds. Economic and political realities are making this power more potent as pressure increases to authorize more bonds for more purposes.

There's an equally important area where the Treasurer wields substantial power and that is because he sits as Chair or member of 44 boards and commissions; 44 boards and commissions. Many shape housing, education, health and environmental policy by their decisions to direct money to some types of projects rather than others.

The exercise of these enormous powers is largely discretionary, not dictated by law as Mr. Lungren would have you assume, and therefore will necessarily reflect the values and the preferences of the officeholder.

That brings me to my fourth point, Mr. Chairman and Members. Unless the Nominee abandons his deeply-held convictions, something we cannot reasonably expect him to do -- we can't ask him to do that -- the interests of the mainstream many will be sacrificed in favor of the interests of the extremist few.

The Treasurer can use the incredible investment power we've bestowed on the Office as Jesse Unruh did, to finance the

construction of hospitals for the indigent, of housing for the disadvantaged, and to maximize returns for retirees. Or he or she may choose to consider the vast vault of the people's resources as just another playground for the usual gang of silk stocking oligarchs that try to run things.

Now, Jesse Unruh used the power of California's investment portfolio to open the public finance market to minority-run firms or to those aggressively hiring qualified women and minorities. He even sent letters to the banks saying he would instruct State agencies to close their accounts with institutions that discriminated.

What can we expect of the current Nominee? He was one of only 32 out of 437 votes against the 1984 Civil Rights Act. He opposed the Equal Rights Amendment and the federal Pay Equity Study. He opposed economic sanctions against South Africa in 1986. And he most notably opposed reparations for Japanese Americans who suffered grievously in the seizure of their property and the violation of their rights during World War II.

Well now, what might that lead you to believe? I think we would be safe in kissing off any special concern for the participation of women and minorities in the finance market, and I would anticipate a certain lack of concern over the implication of South African investments. As a matter of fact, the Nominee's record profiles a person who would dismiss sanctions against South Africa as a kind of sentimentality standing in the way of good old American business.

Now, it's not just a question of reluctance to take the initiative, as Jesse Unruh did. It's a failure to implement programs conceived by and for mainstream California, and that's my fifth and final point.

Proposing to place the implementation of publicly important programs in the hands of one with an unblemished record of hostility to those programs is tantamount to the sabotage of public program goals.

Consider environmental issues. The Treasurer can derail General Obligation Bonds for environmental protection. The Nominee was one of a handful of votes against the veto override of the 1987 Clean Water Act. He opposed the Safe Drinking Water Act. He voted against a 1984 measure to protect 1.8 million acres of California wilderness.

The Treasurer chairs a number of agencies that prioritize and distribute limited funds to projects ranging from air pollution control and toxics cleanup to alternative energy investment. It seems to me that a Nominee with one of the poorest environmental voting records of California's entire Congressional Delegation might make use of the powers of the office as an obstacle to, rather than a facilitator of, aggressive funding for environmental protection.

Asking him to turn his back on his own principles to suddenly become an effective environmental advocate is a little bit like inviting James Watt to join Greenpeace.

The Treasurer has tremendous power over funding for housing projects. He chairs or sits on three authorities which

effectively decide how bond money -- $1½ billion last year -- is distributed among funding for VA and FHA mortgages, senior citizen residential projects and low-cost housing. These powers make the Nominee's record on housing issues extremely pertinent to this confirmation.

In 1984, the Nominee voted against assistance for moderate-income homeowners and rural housing.

In 1985, he voted to eliminate a number of housing programs and to reduce the budget for low-income housing by some $4 billion.

Again, the equation is the power of the office and the record of the Nominee add up to major policy risks for California, and that's what's relevant here. In this case, the risk that homeowners as well as the elderly and the poor without housing will find the purse strings of bond funding drawn tightly shut.

The Treasurer sits on the authority that allocates bonds to major medical facilities, to hospitals like St. Luke's in San Francisco, that care for a disproportionate number of indigent patients, and to small facilities that need operating capital while they wait for belated Medi-Cal reimbursement.

An Appointee of a Governor who thinks Medi-Cal is well-funded is not likely to favor loans to hospitals waiting for Medi-Cal reimbursements.

It is likely, on the other hand, that his opposition to abortion, which he alluded to, will affect how he votes on directly money to facilities that perform abortions. Now, he

compared that and contrasted it with an Attorney General who is compelled under the law to enforce the death penalty law and may not like to do so, but is compelled under law to do so.

One is not compelled under law to put the funds in Hospital A and opposed to Hospital B. It is a major discretionary power of the Treasurer.

The Treasurer sits on the board which not only invests pension funds but also represents public employees and teachers in negotiations to maintain their pension and health benefits. Now what is the record of the Nominee? He has consistently opposed measures to strengthen labor and protect senior citizens. He has a 5 percent rating from the AFL-CIO. A 5 percent rating from the AFL-CIO, and a 3 percent rating from the National Council of Senior Citizens. Three percent from the National Council of Senior Citizens.

Well, motivated by his strict partisan views, we can assume that the Nominee will be a vote in favor of ongoing administrative attempts to raid pension funds and to cut health benefits.

In addition to the power to derail bonds favoring programs the Treasurer objects to, there is also the capacity that should not be overlooked to promote bonding in furtherance of political goals. Supply-side conservatives like the Nominee -- I don't think I'm accusing him of anything; I believe he will acknowledge that -- supply-side conservatives like the Nominee have long trumpeted the fact that they stimulate prosperity, build our highways, and educate our children without increasing revenues.

They have been unable to do so, but rather than admit the fact that they're hiding behind a veil of fiscal hypocrisy, they crow about balanced budgets on the one hand while running up the tab for the next generation through bond issues. We're about to begin, the Governor hopes, to finance highways through the use of bond issues.

A Treasurer with a mind to do so could be a powerful partisan spokesman for the instant relief of bond financing. And how is that bought? It's bought by mortgaging the future. This Nominee's intense partisanship on behalf of the ultraconservative cause proves that he is willing and able to be that spokesman.

Given the power of the office, and given his true believer status, we might very well anticipate an era of "damn the torpedoes" bonding that will leave a mass of financial rubble for our children.

I'll conclude now.

All these concerns and all these conclusions are not meant to imply that the Nominee is somehow mean-hearted or morally deficient. He's not. He is a man of integrity who is obviously deeply committed to his principles. Deeply committed to his principles.

But his record indicates a concrete mindset and a lack of flexibility that is inappropriate to the office that we're considering.

I don't demand that an Appointee by my Treasurer. I don't reject out of hand a Republican, even somewhat conservative, Appointee that would be the Governor's Treasurer.

But I think we should be looking for an Appointee that can be our Treasurer. And that will require a kind of open-mindedness that seems to be lacking in the current Nominee.

All that I see is a zealot, and today a very angry one; a dogmatic ultraconservative who promises to be the antithesis in every respect of the previous Treasurer who was elected overwhelmingly by the people, who healed partisan differences. Jesse Unruh healed partisan differences. He was a healer.

I can't accept so blatant a rejection of all that Jesse stood for, what we stand for, and what the California Constitution seeks to provide for all Californians.

Thank you.

CHAIRMAN ROBERTI: Thank you.

We will now proceed to the general witnesses. We will continue this morning's category with those issues the Treasurer deals with concerning energy and the environment.

Senator Art Torres, the Chairman of the Toxics and Public Safety Committee will join us for the questioning.

The first witness is Mr. Gerald Meral, Executive Director of the Planning and Conservation League.

MR. MERAL: Mr. Chairman, do you want us to use this?

CHAIRMAN ROBERTI: Well, now that you have a podium, whichever is more comfortable for you.

And if the other witnesses who wish to testify at this portion would please come up to the front desk so we can, hopefully, leave the rear desk for Congressman Lungren.

Yes, Senator Torres.

SENATOR TORRES: Are we leaving the agenda then? I just want to be clear.

CHAIRMAN ROBERTI: No.

SENATOR TORRES: Oh, I see. All right.

CHAIRMAN ROBERTI: Senators, feel free to ask questions of the witness or of Congressman Lungren at this point.

Mr. Meral.

MR. MERAL: Thank you very much, Mr. Chairman.

My name is Jerry Meral. I'm the Executive Director of the Planning and Conservation League. Our organization does not take positions on partisan appointments, but we do take positions on the Governor's appointments.

I'd like to remind the Committee of the eight times that I've appeared before you to support appointments by Governor Deukmejian, we've supported members of the Energy Commission, State Water Board, Regional Water Boards, the Director of the Department of Conservation and Water Resources, the Department of Parks and Recreation, and we expect to support the Director of the Department of Fish and Game.

Only once before have we opposed a Nominee by the Governor during the past five years.

However, we unfortunately are in opposition to the appointment of Mr. Lungren as State Treasurer. He was very generous in allowing us an interview with him, and we appreciated his frank answers. He did indicate that he would sell bonds if they were passed by the people for such subjects as parks, wildlife, sewers, and so on.

Unfortunately at that time, and up until this point, he has not taker a position on a very important bond act which will appear on the June ballot: the Wildlife Coastal and Parkland Bond Act. We would have urged him and have urged him to support that, as have many of his Congressional colleagues. He did say he would sell those bonds.

The principle reason for our opposition is Congressman Lungren's record as he has obtained one as a Member of Congress. And unfortunately, his voting record has been rather poor in the area of environmental protection. He record as determined by the League of Conservation Voters has been more or less in the 20s and 30s, which is really very low.

And Congressman Lungren commented that frequently Congress is 20 to 30 years behind the curve when it comes to the positions they take on public issues. Unfortunately we believe that his voting record is 20 to 30 years behind the curve on what the American people and, most importantly, the people of California want by the way of environmental protection.

We believe this is an issue that is of extreme importance to Californians and one in which his voting record does not reflect their attitudes.

I'd like to comment on only one particular area, and perhaps the Committee or Senator Torres may have questions, but that is a very important and very controversial subject area right now: the development of California's outer continental shelf for offshore oil.

As you know, the Reagan administration has taken a strong position in favor of developing vast new sections of California's outer continental shelf for offshore oil despite the tremendous environmental and economic damage that could result from a spilling and other problems associated with drilling.

We believe that California does not need its own Secretary, Don Hodel, in State office, especially if the voters have not approved such a person. Unfortunately, Congressman Lungren has been the chief Congressional cheerleader for development of California's outer continental shelf.

When I testified in the Assembly, Assemblyman Baker asked me if I recognized the fact that in Mr. Lungren's district, oil development is a major economic activity, and didn't I believe that he had to represent his district. I felt that was a fair point.

So, we wrote to Congressman Lungren asking him if, as a statewide official, he would take a broader view of the need for development of the outer continental shelf rather than just the view of many of those in Long Beach. Unfortunately, Congressman Lungren has not replied to that letter, but we still think it's an appropriate question.

Our concern is primarily one of the fiscal nature of the Treasurer's activity. The Treasurer has tremendous control over bonds, both political control and, as you've heard from Senator Keene, policy control.

One of the major concerns we have with Congressman Lungren's position on the duties of the Treasurer is his support

of the use of General Obligation Bonds to fund highways. Highways, in our view, should be funded from highway-related revenue sources, such as the gas tax. Under extreme conditions, as you have already approved last year, perhaps from local sales taxes, but we cannot support and do not support the use of GO bonds for highways.

As Treasurer, there's a great danger that a vast share of California's bonded indebtedness could be used up by the use of GO Bond acts for highways.

For these reasons, unfortunately, we are forced to oppose this nomination.

CHAIRMAN ROBERTI: Thank you, Mr. Meral.

Any questions?

Next is Mr. Michael Paparian, State Director of the Sierra Club.

MR. PAPARIAN: I'll speak from here if that's okay.

CHAIRMAN ROBERTI: Yes.

MR. PAPARIAN: I'm Michael Paparian, the Sierra Club California State Director.

We have carefully reviewed the record of Congressman Dan Lungren, and we've investigated the duties of the office of Treasurer, and we've concluded that Congressman Lungren should not hold the position of State Treasurer and we urge you to oppose his confirmation.

To oppose an Appointee of the Governor is not an easy position for us to take. As the Rules Committee knows, we have very rarely opposed nominees of the Governor and have, in fact, supported some of his nominees.

The Sierra Club's opposition to the nomination of Congressman Lungren is based primarily on how his consistent attitude of hostility to environmental concerns as revealed by his voting record will influence his actions as State Treasurer. He has consistently voted against strengthening policies and allocating money for programs for clean water, parks and wilderness, toxic control, and other program. He has done so in many cases, even when his Republican colleagues support such programs.

It is our belief that his consistent opposition to these fundamental environmental policies will lead to his use of this discretionary authority to undermine the environmental programs under control of the State Treasurer.

In examining his record, we found that his attitude towards parks and wildlife is horrible. He has voted against -- excuse me, he has voted to cut funds for park acquisitions. He has voted against legislation to establish wilderness areas in Oregon, Alaska, Alabama and other Southeastern States, California, and many other locations. He has voted against legislation to require that threats to national parks be investigated and mitigated, and only two months ago he voted against protections for endangered species.

On clean water, clean air, and toxics Congressman Lungren has a similar record. In 1984, he opposed legislation to establish federal standards for drinking water and to authorize funds for safe drinking water programs. The measure was overwhelmingly supported by his colleagues and passed by a vote of 366-27.

In 1987, only 26 Members of the House voted against overriding a veto of the Clean Water Act; 401 voted for the override. Congressman Lungren was one of the 26 who opposed the enactment of the Clean Water Act.

In 1982, Congressman Lungren voted to prevent spending of money to enforce certain key provisions of the Clean Air laws. He has voted against virtually all important amendments to strengthen the federal toxics Superfund. He has voted against virtually all strengthening updates to the Clean Water Act.

Congressman Lungren and his supporters have argued that his voting record and stated views on policy issues are not relevant grounds for determining his fitness to serve as State Treasurer because as Treasurer, Mr. Lungren would be carrying out ministerial functions. Despite his lack of commitment to protecting public health, consumers, and the environment, we have been told, in effect, "Not to worry. Mr. Lungren won't be able to do anything as Treasurer to mess up the environment or affect public health," and that "This isn't your fight; just some partisan battle."

While it's a great temptation to follow such expedient advice and avoid involvement in this controversy, we are unable to stand idly by and keep silent on the environmental issues which are at stake in Mr. Lungren's nomination. In reviewing the powers and duties of the Office of State Treasurer, we find much to be worried about should Mr. Lungren take office.

There are several areas where the Treasurer exerts significant discretion which could affect the environment and the

public interest. For example, as the Committee is aware, the Treasurer has broad discretion over decisions to cancel or postpone bond sales and rule on the necessity and desirability of authorized -- issuing authorized bonds.

As an example, the Government Code states clearly:

> "The State Treasurer may cancel or postpone the sale to an indefinite date by public announcement made prior to or at the time and place fixed for the sale of bonds."

Unlike the issuance and sale of bonds which have been approved by the Legislature and the voters, with respect to the revenue bonds the Treasurer acts like a banker, providing tax exempt financing to a wide array of public and private projects. For example, we have become increasingly concerned with the use of tax exempt bonds and other types of bond financing to underwrite costs of projects such as waste-to-energy facilities, tire burners, and hazardous waste incinerators. Will Mr. Lungren be able to say no to environmentally questionable projects which have strong political and corporate backing? Based on the evidence on the record, we fear the answer is no.

At the same time, we believe that other types of projects for which tax exempt financing is badly needed -- such as recycling facilities, innovative energy and hazardous waste technologies, and small business compliance with environmental regulations -- may well get short shrift from Mr. Lungren's Treasurer's Office because they have never been a priority of his as demonstrated by his Congressional record.

Will Mr. Lungren use the powers and influence of his office to foster the development of new and environmentally sound technologies and programs? Again based on the record, we fear the answer is no.

As another example, in 1987, the Treasurer approved more than $500 million in low-interest financing through the Pollution Control Financing Authority for the State's two largest utilities: Pacific Gas and Electric and Southern California Edison. Before approving the financing, however, Mr. Unruh forced the utilities and the Public Utilities Commission to agree that the millions of dollars in savings from the tax exempt bonds would be passed on to utility ratepayers instead of utility stockholders.

Would Congressman Lungren be as vigilant in protecting consumer interests on important energy issues such as this one? We fear that he would not.

Congressman Lungren has compiled a singularly bad environmental voting record. Because the Treasurer's Office can and will have major impacts on public health and the environment in California, we respectfully urge the Senate Rules Committee to make every effort to ensure that his performance in the new office will not be the same with respect to the environment, public health, and consumer issues as his performance in Congress.

If, as we suspect, Congressman Lungren is unable to credibly provide such assurances, we respectfully urge you to reject his nomination and return it to the Governor.

I appreciate the opportunity to present our views, and I do have a written copy of my statement which I will submit to you.

CHAIRMAN ROBERTI: Thank you very much.

The reporter has requested a five-minute break, so we will break for five minutes and be back at 11:25.

(Thereupon a brief recess was taken.)

CHAIRMAN ROBERTI: The meeting will come to order.

I believe you had concluded, Mr. Paparian?

MR. PAPARIAN: Yes.

CHAIRMAN ROBERTI: The next witness is Ms. Bea Cooley with Friends of the River.

MS. COOLEY: Thank you, Mr. Chairman.

I am Conservation Director of Friends of the River, which is an organization in California with approximately 8,000 members who seek to protect what remains of our free-flowing rivers.

The question that could be asked today of me in particular is: Why is it that I come representing my organization and its members to oppose the confirmation of Congressman Lungren as Treasurer of the State of California?

I must say that I'm glad I was here in time to hear the Congressman's statement because it provided me with a small amount of information which I did not have access to before. That specifically is that he failed to mention in any way the environment in his statement.

That indicates to me that the environment does not weigh heavily on his mind. To put it in a more vernacular way, I don't believe he cares much about it.

Otherwise previously, the only information that we had on which to base our opinion was the Congressman's voting record, and that is, as you have heard others say, reflects not a thinking and reasoning voter, but one who votes automatically and along only one line.

In looking at the Congressman's voting record, I would like to mention a couple of instances. One is the California Wilderness Act in 1984. Of significance to us in addition to the designation of wilderness was a very significant breakthrough in river protection, that of designating the Tuolumne River as a Wild and Scenic River. As you know, the Congressman voted against the California Wilderness Act.

However, much more significant was a vote which occurred only last November. This was a vote on designation of another river, this time a Southern California River, the one nearest the Congressman's own district, the Kern River. The Reagan administration proposed in 1982 that the north fork of the Kern River be designated into the Wild and Scenic River system, and we considered it a very significant victory that that river was designated in November, all the way from its headwaters in the Sequoia National Park through the Golden Trout Wilderness down to the Kern County line.

In addition to being a Republican and an administration-sponsored bill, it had a Republican sponsor in the House of Representatives. It was nonpolitical. It was noncontroversial.

CHAIRMAN ROBERTI: What was this again?

MS. COOLEY: This was the Kern designation.

CHAIRMAN ROBERTI: Yes, as a Wild River?

MS. COOLEY: Wild and Scenic River, that's right.

Congressman Lungren was one of only 26 Congressmen who vote no on that bill.

As Treasurer and, again, of great significance to the issues with which we deal, the Treasurer chairs the California Alternative Energy Source Financing Authority, which has significant discretion over what kinds of projects and indeed which projects received approval and thus financing through revenue bonds.

CHAIRMAN ROBERTI: That's the Alternative Energy Financing Authority?

MS. COOLEY: That's correct.

Small hydroelectric projects are of the type that would seek funding through this authority, are currently the single most destructive projects facing California's creeks, rivers and streams. With his voting record, we believe that Congressman Lungren has shown that he would not be sensitive to environmental protections. Indeed, his entire voting record reveals a rigid, uncompromising bias against preservation, against providing drinking water, cleaning up the environment, against assuring that we leave a positive environmental legacy.

The powers of the Office of Treasurer, powers that can clearly affect California's environment, call for awareness, for understanding, for sensitivity in the person who serves in that capacity.

The Friends of the River respectfully request that you deny confirmation of Congressman Lungren as Treasurer of the State of California.

I appreciate the opportunity to present our views.

CHAIRMAN ROBERTI: Any questions? Senator Craven.

SENATOR CRAVEN: I'd like to ask a question.

You said you had 8,000 members in your organization.

MS. COOLEY: Yes, sir.

SENATOR CRAVEN: Statewide?

MS. COOLEY: Yes, sir.

SENATOR CRAVEN: Did the Board of the organization -- I presume you have a Board of Directors?

MS. COOLEY: Yes, sir.

SENATOR CRAVEN: Did they meet and take a position on that?

MS. COOLEY: They did.

SENATOR CRAVEN: How long ago was that?

MS. COOLEY: This was shortly before the Assembly hearings began.

SENATOR CRAVEN: I see, because they have a fear that, as you say, the environment does not weigh heavily upon the Congressman's mind?

MS. COOLEY: Given the voting record and given the kinds of assaults that we face to rivers, creeks and streams in California, it was their agreeing with our presentation of information that confirmation of Congressman Lungren would be destructive to the river environment in California.

SENATOR CRAVEN: Did you use the word "assault"?

MS. COOLEY: Yes.

SENATOR CRAVEN: Where does the assault come from?

MS. COOLEY: The assault comes from projects which dam rivers, which divert them, specifically the hydroelectric projects that I'm speaking of, and for -- in many instances projects of that type cannot stand on their own and require funding sources. And this is where we believe the Treasurer could have an effect on those kinds of projects.

SENATOR CRAVFN: Would you tell me the end result of the Kern project? What happened on the Kern project?

MS. COOLEY: It was designated as a Wild and Scenic River.

SENATOR CRAVEN: So his one of 26 really didn't have much meaning?

MS. COOLEY: No, I agree that it didn't have much meaning.

What I think it does indicate is how far from, as others have used the term, the mainstream voter he actually is.

SENATOR CRAVEN: Do you feel that the Congressman is in the same position as Treasurer that he is as a Congressman?

MS. COOLEY: No, sir, I don't.

SENATOR CRAVEN: In other words, he is not a Legislator when he's a Treasurer?

MS. COOLEY: That's correct.

SENATOR CRAVEN: Don't you think it's entirely different that a Legislator reacting perhaps to his constituency and his

own ideas may have a little different feeling than a person serving in a capacity that really, with all due respect, is not really ordained to look after Wild Rivers, would have a little different thought process and concern?

MS. COOLEY: What I think has been demonstrated is that there is a very general and, I think, deep-seated lack of consideration for preservation kinds of issues, and that being a position that perhaps the Congressman would take in other kinds of arenas. I believe that it would override whatever other concerns he would have at the time.

SENATOR CRAVEN: Of course, a great deal of that is based on a presumption; isn't it?

MS. COOLEY: I can only presume from the evidence that is available.

SENATOR CRAVEN: You're presuming, though, on a different set of circumstances. You're looking at Treasurer in this prospective sense, but you're looking at a legislative action in the other.

MS. COOLEY: That's correct.

SENATOR CRAVEN: My thought would be that they are not necessarily identical, one to another.

MS. COOLEY: Well, I suppose we'd all be much happier if we could predict the future, but I what we have to use is the evidence that is available and upon that --

SENATOR CRAVEN: Oh, I have no quarrel with your attitude.

I perhaps myself have not been overly concerned nor have lost any sleep about what happened. As a matter of fact, I didn't know there was a river in Kern County that had that much water in it, to be very frank with you.

(Laughter.)

MS. COOLEY: We're glad that it still does.

SENATOR CRAVEN: But it's nice to hear that that is the case.

But, you know, I have a feeling that by the end of this week, when these hearings have been consummated, that he's going to be responsible for just about everything, including fast food. And everybody, through some degree of what I choose to call truncated logic, is going to tie themselves to this great position of being Treasurer.

With all due respect to the prior Treasurer, who was a friend of all of us and who all of us had a tendency in certain areas to revere, when he ran for office I don't think a soul ever asked him about the Wild Rivers or anything else.

Now, there was a certain, I suppose, pervasive goodness that surrounded him; that you don't find an aura around Dan Lungren.

CHAIRMAN ROBERTI: "Pervasive goodness" around Jesse Unruh?

(Laughter.)

SENATOR CRAVEN: You got my point, Mr. Chairman. That's what I'm saying.

In other words, I just don't like to see people, and I know we've only heard the first three shots here at Fort Sumpter, that everbody's going to come in and tee off on the Congressman.

And I think it's really rather unfortunate. I understand your concern, and I certainly don't mean to minimize it.

But by the same token, I think you are attributing to him in a prospective, presumptive sense, something that you should not necessarily be doing in the first place. And secondly, I think it's rather dangerous to presume anything.

I think you have to be judged based on your performance in that role, and frankly, I really feel that very strongly.

But it's nice to have you come in and say your piece regardless.

MS. COOLEY: Thank you.

SENATOR CRAVEN: And I thank you.

CHAIRMAN ROBERTI: If I might glean from what the witnesses are saying, and maybe I'll ask the Congressman if he would like to respond, and that is that there is a concern that some of the discretionary powers that the Treasurer has in the field of energy and in the issuance of bonds might be tempered or executed in an area or in a way that is hostile to the environment.

For example, as I understand it, the Treasurer is Chairman of the California Alternative Energy Source Financing Authority and can determine which energy projects, including those that might be on some rivers or in environmentally

sensitive areas, receive tax exempt funding. That is one power that the Treasurer has and which the Treasurer's record on environmental questions would be important.

Another would be that the Treasurer is a member, one of three and, I believe, the Chair as well, of the California Debt Limit Allocation Committee, which sets priorities for various kinds of bondings. And that also would be important as to whether environmentally sensitive kinds of bonds would be placed as a disadvantage to those that are not, or where bonds that would produce projects that create a great deal of energy to the exclusion of protection of the environment would be given preferred status.

The long and short of it is, Senator, I do think the Congressman's record on environmental questions is important because he has the discretionary powers, first, of setting priorities on the Debt Limit Allocation Committee and others. And also, as I understand it, he really determines which projects will get funded through the California Alternative Energy Source Financing Authority. So I would say that his record in this area is relevant, and therefore one which I believe the witnesses, you know, within their rights or within the purview of our hearing to make statements on.

SENATOR CRAVEN: I have no question about their making statements.

I would like to ask of you, Mr. President, those committees, or whatever they're called, that he serves on to which you have just alluded, presumably there are other members on that?

CHAIRMAN ROBERTI: Right, I believe both of them are three. For example, the one which sets priorities, which is the Debt Limit Allocation Committee, is composed of the Treasurer, the Director of Finance, and the Controller. The Treasurer serves as Chair of the Committee.

And the California Alternative Energy Source Financing Authority is composed of the Treasurer, the Controller, the Director of Finance, the Chairman of the California Energy Commission and the President of the Public Utilities Commission. That's five, two in addition to the membership of the other committee.

They seem to be roles in which the Treasurer can prioritize and decide what projects are beneficial. And I think his positions on energy and environment are very important.

SENATOR CRAVEN: But in either instance he would have to pick up one or more votes to prevail.

CHAIRMAN ROBERTI: You're absolutely right, but no different --

SENATOR CRAVEN: My point I guess, Mr. Chairman, is, we made a comment about hospital funding and so forth.

For an example, and in an hypothesis, I would hate to see the President Pro Tem denied the opportunity to serve as Treasurer of the State of California because of his presumed, presumed, antipathy toward hospitals based on his very strong pro-life position.

CHAIRMAN ROBERTI: Well I didn't agree with Senator Keene on that point.

SENATOR CRAVEN: It's nice to hear that. I didn't agree with him either. A lot of things I didn't agree with, but at that time I thought why take a lot of time.

But I have a feeling I'm going to forget that as the day wears on. So, so much for that.

CHAIRMAN ROBERTI: Thank you, Senator.

Senator Ellis.

SENATOR ELLIS: Ms. Cooley, just to give me some perspective on your organization, I'd like for you to think of these questions outside of Congressman Lungren.

I need to know to give me an idea of the credibility of your organization what the position is on the Pamo Dam in Southern California?

MS. COOLEY: The Pamo Dam is certainly one that has some environmental considerations. It has a threatened endangered species in Bell's vireo, which is at the moment holding up permitting procedures.

We have not taken a specific position on the Pamo Dam as of this moment.

SENATOR ELLIS: So your feeling is, perhaps, that you would support it? You think that you would probably support it?

MS. COOLEY: It's unlikely that we would support.

SENATOR ELLIS: Sorry?

MS. COOLEY: It is unlikely that we would support --

SENATOR ELLIS: Unlikely you would support?

MS. COOLEY: -- the Pamo Dam project.

SENATOR ELLIS: Well, are you aware that the people of the county voted for it?

MS. COOLEY: I was not aware.

SENATOR ELLIS: Well, then it seems to me that you would automatically react and oppose Pamo Dam without knowing that the people there have voted for it for a very important reason and that's water. Southern California, particularly San Diego County being at the end of the water line, is in a very, very serious position for water, and the people recognize that.

Now, I'm assuming that Congressman Lungren can sort of be not looking at the broad picture, and he's zeroed in on certain things such as economy and things of that sort, but then I should think your organization also not have a broad approach and understand some of the problems that the people have in addition to the environment.

MS. COOLEY: Another area, if I may use another example, another area that we have worked very hard on is a dam project that is very familiar to the people who live in the Sacramento area, and that's the Auburn Dam project.

There was recently a poll conducted in Sacramento and Placer Counties, and one of the questions asked was: Would you support an Auburn Dam that provided water and power supply for flood control for Sacramento, even if it cost you most than a dam that provided only flood control?

Not surprisingly, and I'll tell you why not surprisingly in just a moment, 68 percent or so of those polled said: Sure, they would support it even though it cost them money; clearly

believing that it is water supply that is necessary from that project, and that without the project, Placer and Sacramento Counties would be without water.

In fact, the one reason that the Auburn Dam is not built today is that there has not been demonstrated a need for the water and the power that it would produce.

What we attempt to do in our arriving at positions on all dam projects is to determine whether or not there is a true need rather than a perceived need and go from there.

SENATOR ELLIS: Well, perceived from whose viewpoint?

MS. COOLEY: It depends.

SENATOR ELLIS: I think that's the question.

Thank you, Mr. Chairman.

CHAIRMAN ROBERTI: Thank you.

Senator Torres.

SENATOR TORRES: Mr. Lungren, how many Senators do you plan to meet with before the deadline for the confirmation?

CONGRESSMAN LUNGREN: I'd love to meet with all of them if I could, Mr. Chairman.

Could I just ask one question?

CHAIRMAN ROBERTI: Yes, Senator -- excuse me, Congressman Lungren.

CONGRESSMAN LUNGREN: I was -- I'll take the promotion, some would say.

I was under the understanding when I met with staff last Friday that I would be asked questions after all witness questions were completed at each section so that we would not have us repeating --

SENATOR TORRES: I believe that's exactly what's happening, Mr. Lungren. I believe the three witnesses have completed their testimony, if I'm not mistaken.

CHAIRMAN ROBERTI: Yes, I hope there's not a misunderstanding.

The witnesses have concluded, I understand, and I don't know of any other witnesses in this area. And the Committee Members, not that they're not free to ask questions, have concluded with their questions, and I've turned it over, therefore, to Senator Torres.

CONGRESSMAN LUNGREN: Okay, that's fine.

That memo that you told me you were not following said that it was important that I attend all meetings, sitting at the witnesses' table and forced into a running dialogue.

CHAIRMAN ROBERTI: No, I explained --

CONGRESSMAN LUNGREN: I know we're not going to do that.

CHAIRMAN ROBERTI: -- to you earlier that you don't have to stay if you don't want to. That's before you read the memo.

CONGRESSMAN LUNGREN: No, my point is, are the witnesses finished?

CHAIRMAN ROBERTI: Yes, they are.

CONGRESSMAN LUNGREN: Okay, thank you.

I'll be happy to meet with all Senators and Assemblymen and women, but as you know, the schedule has been rather difficult over the last couple of months as I've been --

SENATOR TORRES: Am I on your list?

CONGRESSMAN LUNGREN: I've been here more often --

SENATOR TORRES: Am I on your list?

CONGRESSMAN LUNGREN: Well, let me say that I have a priority list.

SENATOR TORRES: I'm not on your priority list?

CONGRESSMAN LUNGREN: Well, when someone makes a statement with respect to my qualifications and my inability to complete a job without ever having met me or discussed it with me to hear --

SENATOR TORRES: I never suggested you had any inability to complete any job, Mr. Lungren. All I said was you reminded me, the nomination reminded me, of Robert Bork, and then I kept quiet --

CONGRESSMAN LUNGREN: A very objective statement.

SENATOR TORRES: -- and then I kept very quiet so I would do my homework and find out exactly where you are.

I just want to know if you're planning to call me and set an appointment to discuss your credentials and your vision for California? If you're not, then I'll use this opportunity to do that.

CONGRESSMAN LUNGREN: Are you one of the 19?

SENATOR TORRES: I'd like to -- no, I'm 41 years old.

(Laughter.)

SENATOR TORRES: We talked about earlier about family, and I think that's extremely important. I really appreciate you saying that, and I'd like to also welcome on behalf of the Senate your family who's here today, because I think it's important that they be part of this process because I think the story that you

told about your background could fit any one of the Members of this Committee and any one of the Members of the Legislature. Because all of us are hardworking politicians, most of us have families that we care about, and most of us have a vision for California.

But I think you said earlier that you really embrace -- and correct me if I'm wrong -- all of California's wishes and visions. As I recall it was a Los Angeles Times article, and sometimes they don't quote as directly, as you know. But you said:

> "I would argue that my voting record is reflected in the philosophy expressed by Governor Deukmejian and Ronald Reagan, and that, I would argue, is in the mainstream not only of Republicans but in the mainstream of California voters at large."

CONGRESSMAN LUNGREN: I'll stand by that, yes.

SENATOR TORRES: The Field Poll -- and I don't know whether you stand by polls or not; I don't believe them all the time anyway. They're more like a snapshot of time, really -- the Field Poll in 1988 talked about issues and my responsibility, and I must say to you that I never saw a memo, nor was I told what the contents of a memo were. But I'll tell you right now that my nature is to ask persistent questions because it's just the way I am.

CONGRESSMAN LUNGREN: Senator, I don't in any way suggest you ought not to answer [sic] persistent questions.

SENATOR TORRES: Great. Thank you.

CONGRESSMAN LUNGREN: There's a different between acting as a prosecutor and asking specific questions, as you well know. And I'm sure that's why Senator Roberti had them remove that particular phrase from the memo, because if that were the original intent --

SENATOR TORRES: I haven't seen a memo, Mr. Lungren, so I don't know what memo you're talking about.

All I've seen is a letter from Senator Maddy used to raise funds with my name in it, and I hope I get a percentage of whatever you guys raise.

(Laughter.)

SENATOR TORRES: Fourteen grand, is that all? That's a shame.

(Laughter.)

SENATOR TORRES: What I want to point out is that, Mr. Lungren, Bob Finch is a very good friend of mine, too, and I know he is of yours. Pat Brown's a very good friend of mine, as I know you stated earlier that he is of yours.

And I don't want to stress the environmental issues here on a partisan basis. I want to stress them on what Californians feel about them.

Now, among registered voters in this '88 poll, 76 percent of Californians want support for stronger environmental protection even if it means less economic growth for California.

That was astonishing. What was even more astonishing was that 67 percent of all Republicans in California feel that way, too. And 82 percent of all Democrats feel that way, too, and 76 percent of all registered voters in California feel that way, too.

But what's even more astonishing was that 70 percent of conservatives who identified themselves as conservatives also wanted a stronger environment even if it meant slowing economic growth.

Now Mervin Field, you can agree with him or not agree with him; I'm sure other pollsters will disagree.

But what I'm trying to point out is that the environment is not a partisan issue, because we all breathe the same air, we all drink the same water, and we all live live on the same land. And sometimes we like to swim in the same rivers and the same oceans.

And so, what I wanted to go over very quickly, because I don't want to take too much time of the Committee and I appreciate their indulgence, is: Senator Roberti talked about three agencies, and that's what I just want to concentrate on, and if you can bear with me.

Let's take the Alternative Energy Financing Authority. Are you familiar with that?

CONGRESSMAN LUNGREN: Yes.

SENATOR TORRES: Can you tell me what they do?

CONGRESSMAN LUNGREN: They have the responsibility for facilitating the bond financing of alternative energy facilities.

SENATOR TORRES: What does that mean to you?

CONGRESSMAN LUNGREN: Means exactly what I said it does.

SENATOR TORRES: That's too good.

What I asked was, what does the Authority have the responsibility for?

I'm trying to find the statute around here. The statute says:

> "The Authority shall establish criteria for the selection of projects to receive financial assistance from the Authority consistent with sound financial practice in developing project selection criteria."

And they talk about the criteria in the statute which deals with those issues which will require additional areas to avoid environmental degradation and waste.

Now, according to your voting record, and that's what this Authority is about, you refused to pass a bill to authorize 25 million for additional research into solar power.

Now, I'm not asking you to remember when you voted because I couldn't remember when I voted on thousands of bills. That's not what I'm asking.

But you're for wind energy because in a later vote, you voted yes to a bill by Congressman Fuqua, I believe, from Florida to --

CONGRESSMAN LUNGREN: Right.

SENATOR TORRES: -- to pass a bill to authorize 100 million in fiscal '81 for research development and administration of wind energy systems.

Now, I remember when Jerry Brown was pushing for wind energy, and I don't recall any of your friends in the Congress, especially on the Republican side, being supportive of Jerry Brown especially when it came to wind.

So what's the difference between solar energy and wind energy in your opinion?

CONGRESSMAN LUNGREN: Well, if you're asking me the question in the context of those votes, I'll be happy to respond to them.

Are you asking generally speaking how I would gauge projects in the future, which is very speculative? I'm trying to understand what question you'd like me to answer.

SENATOR TORRES: I don't want you to be speculative because that would be unfair on my part to ask you to do that.

CONGRESSMAN LUNGREN: All right.

SENATOR TORRES: All I'm asking is, here is the Authority.

CONGRESSMAN LUNGREN: Right.

SENATOR TORRES: You sit on it.

CONGRESSMAN LUNGREN: Right.

SENATOR TORRES: You folks will probably have control of it because the only other person on it is the Controller, I believe, and --

CONGRESSMAN LUNGREN: No, the Treasurer, the Controller, the Director of Finance, Chairman of the California Energy Commission, the President of the Public Utilities Commission as well.

SENATOR TORRES: Right, they're all George's appointees. So, what would you choose --

CONGRESSMAN LUNGREN: The Controller?

SENATOR TORRES: Except for Gray.

CONGRESSMAN LUNGREN: Let's not forget him.

SENATOR TORRES: I don't.

What made you choose for solar energy versus wind energy? Why down on solar and not on down on wind?

CONGRESSMAN LUNGREN: I think in that respect it was a question of whether we should continue to support a particular energy resource, which I felt at the time had had sufficient funding as far as what was available over all.

Let me give you a for instance in another area that I can remember specifically.

With respect to the nuclear breeder reactor, when I first came to Congress, I was convinced that the technology had merit. And it was a rather controversial vote that came up. We've had a nuclear breeder reactor program in Tennessee for some years.

It appeared at that point in time, based on the best evidence, that it had prospects for a real development phase. That is, we were on the verge, or at least that's what was presented to me and I was convinced.

Two years later the vote came up, and then a year after that the vote came up, and I changed my mind on it. I changed my mind on it because presented to me was evidence that in fact the technology had not proven out; that in fact the dangers

associated with the technology were greater than any prospective benefit, and that the scale of the project that would have been continued was behind the international standards and international progress, and that in fact we would be putting good money after bad. And so in that regard I changed my mind on it.

You'll find in some circumstances I have supported at a point in time when I thought it was appropriate some alternative energy sources, and when they didn't pan out, I didn't -- I didn't deign it important for us to continue to support it.

At the time the wind proposal came up, it looked like one of a total mix of alternative energy sources that were available to us, and I thought it made sense at that particular time to do it.

What I'm saying to you is, I judge projects on their merit, on a case by case basis. I've done that whether it deals with public works projects or whether it deals with what I consider to be environmental projects or energy projects.

SENATOR TORRES: You're saying to me that all of your votes which have been negative against solar energy are based upon individual projects that were put before the Congress? I find that hard to believe because in reviewing most of the Congressional Record, I don't recall grants or proposals being brought forward before the Congress in terms of their technical expertise.

CONGRESSMAN LUNGREN: I'm saying to you, at the time of my evaluation of various projects it was my particular decision that continued further funding was not appropriate --

SENATOR TORRES: All right.

CONGRESSMAN LUNGREN: -- either because of the specific project or because I thought we had put sufficient money into the program at the time.

SENATOR TORRES: I've got it.

Let's deal with the Pollution Financing Authority, which is a second agency that we've talked about and I believe Senator Roberti raised as well.

You have the -- just to save time, I'll tell you what it does. It's probably one of the most largest and active authorities, and it was limited by the vote of the Tax Reform Act on the federal level. But you have allocations in '87 of close to 600 million that you, as Chairman of the Authority, can issue taxable bonds on to finance a number of areas.

And when you say individual projects, this comes into mind immediately. In California, we have a severe air pollution problem.

CONGRESSMAN LUNGREN: I know it. I was born and raised in Southern California.

SENATOR TORRES: I know all that. And that's why I can't figure out your votes on air pollution, because knowing that you grew up in Southern California as I did, and we probably grew up in the same -- not the same areas certainly, but the same ambience.

How old are you?

CONGRESSMAN LUNGREN: Forty-one.

SENATOR TORRES: I'm 41, too, so we're basically from the same time period, and I still can't figure out, given that, what happened --

CONGRESSMAN LUNGREN: Well, maybe I should read --

SENATOR TORRES: -- on the air pollution stuff.

Let me read the one --

CONGRESSMAN LUNGREN: May I should read to you a December, 1987 letter I received from the Sierra Club --

SENATOR TORRES: I'm not interested --

CONGRESSMAN LUNGREN: "Dear Congressman Lungren,

"On behalf of the Sierra Club's --"

SENATOR TORRES: No, excuse me --

CONGRESSMAN LUNGREN: "-- 243,000 members --"

SENATOR TORRES: Mr. Lungren, Mr. Lungren --

CONGRESSMAN LUNGREN: " -- it is my pleasure to sincerely thank you for your voting against the 21-month Clean Air Act deadline --"

SENATOR TORRES: Mr. Lungren, I'm not interested in hearing letters that have been sent to you. I'm interested in votes. That's what we're talking about here.

CONGRESSMAN LUNGREN: This refers to a vote, a recent vote on Clean Air.

SENATOR TORRES: No, no, I'm talking about, as you said, we have to judge you in the total picture.

CONGRESSMAN LUNGREN: Do you want to hear about what I voted for the Clean Air Program?

SENATOR TORRES: I know where you voted on those issues. I know where you voted, Mr. Lungren, and I've read your record for nine years now.

CONGRESSMAN LUNGREN: You haven't heard that letter.

SENATOR TORRES: I voted -- of course I didn't read that letter.

All I'm relying on is the Congressional Record, and that's what I'm relying on, and your voting record on amendments and on bills, because you challenged this Committee earlier, Mr. Lungren, you challenged this Committee earlier to judge you on your overall record.

CONGRESSMAN LUNGREN: That's right.

SENATOR TORRES: Not on your personal life, not on your personal traits, characteristics; on your record. And that's what I'm trying to assess because in one year you vote one way, in previous years you vote another way. You're going back and forth, flipping and flopping, and I'm trying to figure out just where you really stand on air pollution.

Let me give you an example.

CONGRESSMAN LUNGREN: Senator Keene would be very happy to hear that I flip-flop. If you listen to him --

SENATOR TORRES: I'm not interested in what Senator Keene has to say, Mr. Lungren.

CONGRESSMAN LUNGREN: -- it sounds like I'm one lane all the way.

SENATOR TORRES: It's you and I right now. It's you and I.

All I'm interested in is why would you have voted for Congressman Dannemeyer's amendment, and that was in 1981 -- and I don't expect you to remember the specifics -- but I looked up the debate on that, and that was to prohibit the Environmental Protection Agency from spending any money to require States to implement or enforce programs for vehicle emission control inspection and maintenance.

Now, my God! I was in Los Angeles this weekend and I couldn't even see because of the smog!

And when I looked over the debate in the House with Dannemeyer, and I couldn't find your statement. I guess you didn't talk on that debate or on that issue. But it seems to me, when Dannemeyer was here in the Legislature I couldn't understand him, and now that he's in the Congress, I have a tougher time understanding what he says.

Why would you have voted for that amendment?

CONGRESSMAN LUNGREN: Well, I would have voted for it because I thought it was the right thing to do at the time because --

SENATOR TORRES: In other words, you thought it was right to not give the EPA the authority --

CONGRESSMAN LUNGREN: Mr. Chairman, may I have a chance to respond to questions, or --

CHAIRMAN ROBERTI: Let the --

CONGRESSMAN LUNGREN: -- or are we going to be engaged in this --

CHAIRMAN ROBERTI: -- Congressman respond.

CONGRESSMAN LUNGREN: -- kind of debate, one over the other the entire time?

SENATOR TORRES: I told you I was going to be persistent; you said it was okay.

CHAIRMAN ROBERTI: Let him continue.

CONGRESSMAN LUNGREN: There's a difference between persistence and rudeness.

SENATOR TORRES: I'm not being rude, sir. Please continue.

CONGRESSMAN LUNGREN: The vote that you referred to specifically talked about a program that would have required $2 billion to be paid by the nation's motorists at a time that that equated to $9,000 per ton of pollutants removed.

There was evidence at that time that comparable technologies were available that would have cost about $1,000 per ton, and therefore when weighing the one against the other, it was my decision that under those circumstances it made more sense to go to other types of technologies that were available than it was to place that burden on the national motorists at that time.

I believe the vote gained the support of over 180 Members, Democrats as well as Republicans, and one of the arguments that was stringently made was that the overall affect of this would have been a loss of jobs because certain jurisdictions would not be able to comply with it.

So, I had to weigh, as you do, on many, many legislative questions --

SENATOR TORRES: No, I understand --

CONGRESSMAN LUNGREN: -- the difference between the two. And in that regard, I happened to vote for the Dannemeyer amendment.

SENATOR TORRES: But Mr. Lungren, if I may, that amendment was rejected in the House --

CONGRESSMAN LUNGREN: Absolutely.

SENATOR TORRES: -- yes, and as I read the debate --

CONGRESSMAN LUNGREN: I'm a Republican. We often lose.

SENATOR TORRES: I understand. I'm a Democrat and I lose, too, on more cases than you realize.

But the fact of the matter is, after looking over the debate, I don't see anything about the issues that you raise. What I do see is people concerned about making the States do something that perhaps they don't want them to do.

And when we're talking about vehicle emission and the impact that lots of hydrocarbons have on our society, there raises the question as sitting as a member of this Pollution Authority, financing authority, how will you vote on air pollution?

Let's say a project comes before you as Treasurer, and let's get away from the debate. What if a project comes to you as Treasurer, and you're sitting on this in this capacity, and I believe you're the Chairman of this Pollution Financing Authority. You're going to look at the technology, is that what you're telling me? And you're going to look at the cost.

At what point do you factor in the human health and environmental factors?

CONGRESSMAN LUNGREN: Senator, I factor that in on all occasions. I mean, it is an easy question, an easy thing to do to look at someone's record and say: "Because you have budget concerns, you're obviously unconcerned about the human dimension."

SENATOR TORRES: I never said that.

CONGRESSMAN LUNGREN: We had -- if we had an unlimited budget in Washington, D.C., there are a lot of other things I would vote for.

SENATOR TORRES: I never said --

CONGRESSMAN LUNGREN: The reason I attempted to bring to your mind, to your observation, the letter that I wish to is because it is the most recent -- it concerns the most recent vote in the House of Representatives with respect to the Clean Air Act. I know you want to be fair, so you'd like me to complete my explanation of where I stand on the Clean Air Act.

SENATOR TORRES: Only if the other Members wish to hear the letter, Mr. Lungren, because I don't particularly.

CHAIRMAN ROBERTI: We'll hear the letter, and then we will recess for lunch, if the Congressman chooses to read it.

CONGRESSMAN LUNGREN: Mr. Chairman, am I not only going to be asked to answer questions but be told exactly how to answer the question?

CHAIRMAN ROBERTI: No, I thought you wanted to read it.

CONGRESSMAN LUNGREN: The point is, and I'll read this letter, we were confronted last fall with the question of what we should do because California, particularly in Southern California

and other jurisdictions in the nation, cannot meet the Clean Air Act standards under the deadline.

And the question was: should we extend those deadlines for a 21-month period of time, which was supported by Democrat Congressman John Murtha, one of the assistant whips --

SENATOR TORRES: This is the letter you're referring to, then? This is the vote on the letter you're referring to?

CONGRESSMAN LUNGREN: I'll be happy to answer your question if you would allow me to answer the question.

SENATOR TORRES: I just want to be refreshed. The vote you were describing now --

CONGRESSMAN LUNGREN: I think you're sharper than that than to have to be refreshed.

SENATOR TORRES: No --

CONGRESSMAN LUNGREN: Let me just explain to you what I'm saying.

SENATOR TORRES: The letter is in reference to that vote in 1987; is that correct?

CONGRESSMAN LUNGREN: For the fourth time, yes.

SENATOR TORRES: All right, thank you.

CONGRESSMAN LUNGREN: May I continue now?

SENATOR TORRES: Absolutely.

CONGRESSMAN LUNGREN: Congressman Murtha offered an amendment for a 21-month extension, which was supported in large part by people from the Midwest, particularly those who are manufacturers, have manufacturing sites for automobiles, and California.

The alternative was one from Silvio Conte, which was for an 8-month extension.

The argument was that if we put the 8-month extension as opposed to the 21-month extension, we would give some room for those jurisdictions that cannot qualify for the standards to try and work out a program that would be effective in showing substantial progress towards meeting those standards, but at the same time be short enough period, short enough leash, so that the pressure would continue both from the Executive Branch and on the States to work it out.

I voted for the one to put the pressure on both jurisdictions and the federal government to work it out. It was considered --

SENATOR TORRES: That's commendable.

CONGRESSMAN LUNGREN: That was considered the major clean air question of last year.

SENATOR TORRES: Of last year, but you've been in the Congress for how many years now? Nine?

CONGRESSMAN LUNGREN: This is my tenth year in the Congress.

SENATOR TORRES: Tenth year in the Congress.

CONGRESSMAN LUNGREN: That's right.

SENATOR TORRES: And that's one vote out of hundreds, and that's why I'm confused.

CONGRESSMAN LUNGREN: You've taken two votes out of 4500.

SENATOR TORRES: I could take a lot more, and I have them in my office if you want me to bring them down on air pollution.

That's why I can't figure it out. All this history, and then up to this one vote you change.

CONGRESSMAN LUNGREN: No, that's not true.

SENATOR TORRES: It's not true?

CONGRESSMAN LUNGREN: No, that's not true at all.

SENATOR TORRES: Did you vote for Proposition 65, the Drinking Water initiative? Did you support it or oppose it?

CONGRESSMAN LUNGREN: I didn't take a public stance on it.

SENATOR TORRES: You were neutral on it?

CONGRESSMAN LUNGREN: No, I voted on it, but I didn't take a public stance on it.

I don't -- I've been pretty active with some of the things in Washington, D.C., and oftentimes I wait until the day before the election and sit down and go over, word by word, exactly what the resolution is before I vote on it. I try to be an informed voter on it.

SENATOR TORRES: I'm not asking you to, but if you'd like to tell us how you voted on Proposition 65, that would be helpful.

CONGRESSMAN LUNGREN: I'd like to be honest with you and tell you how I did. I frankly can't remember right now.

SENATOR TORRES: You can't remember.

CHAIRMAN ROBERTI: We'll recess for lunch. We will be back at 1:45.

(Thereupon the Luncheon Recess was taken.)

--oo0oo--

AFTERNOON PROCEEDINGS

--oo0oo--

CHAIRMAN ROBERTI: The Committee will come to order.

We were on that portion of the hearing dealing with the Treasurer's powers in energy and environment, and I believe Senator Torres was asking questions.

SENATOR TORRES: Thank you, Mr. Chairman and Members, again for your indulgence. I will not take much more time in this area, and I want to make this as comfortable a process for Mr. Lungren as possible and directly relate the issues regarding your role as Treasurer to how we feel we ought to move.

Did you refresh your memory over lunch as to whether you remembered whether you voted for probably the most controversial initiative on our ballot, the Clean Drinking Water initiative, Mr. Lungren?

CONGRESSMAN LUNGREN: No.

SENATOR TORRES: I'm sorry?

CONGRESSMAN LUNGREN: No.

SENATOR TORRES: In your opinion, do those entities which discharge carcinogenic, tetragenic, mutagenic materials -- I'll get the spelling for your later -- into our State's water system, do you think they have an obligation to inform consumers?

And number two -- I'll finish the question and then I'll let you answer -- and to what degree should they inform consumers? Should they warn consumers? Should they pay for the clean up?

CONGRESSMAN LUNGREN: Oh, I think ought to establish a method by which information is made available to consumers of a reasonable, not alarmist, nature of that which goes into the waters that we all rely on.

And I think, in fact, with respect towards cleanup, that those who pollute ought to be required to clean up; although I understand in terms of the total scope of clean up that we're embarking on in this country, we're probably going to have to have participation by local, State and federal government.

In terms of the Superfund, for instance, we had a debate over two amendments -- the Downey amendment and another amendment whose author I cannot recall at this time -- as to whether we should have a value added tax as the basis for paying for the Superfund, or whether we should actually attach it more directly to the polluters.

It was a close decision, and it was like a 205-204 vote, something very close to that, but after I listened to the debate, even though I wasn't on the committee, I was of the mind that in this instance, the proof in support of a value added tax was not determinative. And in fact I supported the other approach, which is a phased approach of putting the tax on the backs of those identified as polluters.

I'll just tell you, it's not a totally easy thing to do because we all, in essence, when we benefit in our society from any number of different products that are available in a sense are contributing to the pollution that results from the overall production. And so, there can be an argument, it seems to me, for a value added tax.

It just seemed that under the circumstances at this point in time on the Superfund, I'd rather have it done more closely aligned to those for whom we can prove there is a direct connection to the actual pollution.

SENATOR TORRES: That's why it troubles me when I look at those votes which had a direct impact on drinking water in the Congress in 1974, in 1981, in --

CONGRESSMAN LUNGREN: I wasn't there in '74.

SENATOR TORRES: -- in 1984, and in 1986, and again in 1983, those were all amendments that were produced by, in one case Congressman Waxman, and in another case another gentleman who I don't know, Shelby from Alabama, and also Congressman Waxman again in 1980. And all of those votes were on amendments that would have required us to clean up those messes, would have required us to have these polluters warned, and would have required us in the case of these water quality issues to clean things up.

Is it the basis that it was too much money in the bills? Is that the reason for your no vote on these amendments? Or was it just your philosophical difference with the programs as you saw them?

CONGRESSMAN LUNGREN: It all depends on what the amendments are.

SENATOR TORRES: Let me refresh your memory.

Do you recall the amendment in 1984, it was September 18th, and I know I wouldn't be able to remember dates two or three years, four years ago, but it was the Safe Drinking Water

Act. You voted against the passage of a bill to set deadlines for establishing federal standards on contaminants in drinking water and to revise the program enforcement and other authorities to establish new groundwater protection programs. And it would have authorized 216 millior annually for fiscal years '86 to '89 for federal Safe Drinking Water programs and new groundwater programs.

That was HR 5959 by Congressman Waxman.

CONGRESSMAN LUNGREN: You're talking about the Safe Drinking Water Act of 1984?

SENATOR TORRES: Yes, of that bill and that year.

CONGRESSMAN LUNGREN: Yes.

SENATOR TORRES: Do you recall --

CONGRESSMAN LUNGREN: Yes, that bill, if that's the proper bill that we're talking about, that bill was on the Suspension Calendar.

Is that the one you're talking about? It was the bill itself?

SENATOR TORRES: Yes, the bill would have authorized 216 million to clean up.

CONGRESSMAN LUNGREN: That bill was on the Suspension Calendar, which is a procedure we use in the House of Representatives to take care of noncontroversial bills.

Under the procedures, one is not allowed to have any amendments offered or considered. Debate is limited to 20 minutes a side.

There were some concerns the Administration had and other had in terms of budget impact. In fact, it was a 300 percent increase over the request made by the Administration. The Administration wished to have an opportunity to debate the amounts and to bring the amounts down.

You have to realize at this point in time, we were embarking upon cuts in a whole host of issues, that just being one. And I thought that, as much as it was important for us to consider that bill, that bill would have been brought back under a regular rule if was important, as I thought it was, and ought not to be passed out on the Suspension Calendar.

One of the problems we've had in recent years is putting a number of things on the Suspension Calendar that don't belong on the Suspension Calendar. It closes off total debate. It gives no opportunity for amendments to be considered. And particularly when you're dealing with budget matters, it doesn't allow us any alternative to the amount of money that was presented.

So, in that case, I did vote against it.

SENATOR TORRES: All right, but there are two Houses in the Congress as there are here.

CONGRESSMAN LUNGREN: Sure.

SENATOR TORRES: What explains your no vote against the conference report, which was Senate Bill 124, regarding the Safe Drinking Water, which would have adopted the conference report on the bill that authorized the appropriations to carry out the Act of 1974? This was on May 13th of '86, two years later.

CONGRESSMAN LUNGREN: May 13th of '86?

SENATOR TORRES: I don't recall that bill being on any Suspense Calendar.

CONGRESSMAN LUNGREN: If that's the one I'm speak -- if that's the one we're speaking about, is that the one where I voted the first time for it and then voted against it a second time?

SENATOR TORRES: I don't know because it's hard to keep track of when you vote one way and when you vote the other, and I'm trying to look at just the bills that I see in front of me that directly relate to drinking water and your responsibilities as Treasurer.

And that was the conference report on it, and it was called Senate Bill 124, and you voted against the adoption of the conference report. That was on May 13th of 1986.

CONGRESSMAN LUNGREN: May 13th of '86?

SENATOR TORRES: Yes, you were one of 20 who voted against the Safe Drinking Water Act that year.

CONGRESSMAN LUNGREN: I'll get it for you in a second here. I've got '87; I'll get you '86 here in a moment.

Which number was that, please?

SENATOR TORRES: That was Senate Bill 124, the Safe Drinking Water Act. It was the conference report on the bill to authorize the appropriations to carry out the Act itself. And it passed the House May 13th, 1986. You voted no.

CONGRESSMAN LUNGREN: I understand that. I'm sure I've got it here. For some reason I don't have it in front of me.

I'll get back to you on that one.

SENATOR TORRES: Would you?

CONGRESSMAN LUNGREN: Sure.

SENATOR TORRES: Great.

Now, can we talk about remedies --

CONGRESSMAN LUNGREN: Sure.

SENATOR TORRES: -- for people, especially victims.

One of the problems that I had in my district specifically was with the Capri site cleanup problem. And we were very concerned about children who may have been ingesting lead from the dirt surrounding the project. I think you were probably familiar with it. You probably have some of these toxic sites in your district as well.

CONGRESSMAN LUNGREN: Right.

SENATOR TORRES: If your children or my children were injured by a toxic waste spill, do you think that they should have a right to sue in federal court?

CONGRESSMAN LUNGREN: In federal court? I think if there's adequate State remedies, it doesn't make a good deal of sense for us to create a separate duplicative remedy in federal court, no.

I have confidence in the State courts. I worked in the State courts for a number of years, and to just put cases on the federal court calendar does not really serve a purpose. It clutters the federal court calendar when things can be taken care of on the State court level.

SENATOR TORRES: Clutters it in what way, sir?

CONGRESSMAN LUNGREN: It backs people up further and further in terms of their ability to get to court. If you give them the option of filing in both State court and federal court, many will do both.

SENATOR TORRES: And what's wrong with that?

CONGRESSMAN LUNGREN: What's wrong with that?

SENATOR TORRES: Yes. Let's say your daughter or my daughter is poisoned as the result of a toxic waste site and I have to file a case, don't you think I ought to have the right to file in whatever court will me first?

CONGRESSMAN LUNGREN: Well, the question is whether or not you think it's appropriate for the federal government to be involved in an area where the State governments already provide an adequate remedy. In my judgment, they did.

SENATOR TORRES: All right, so your judgment is that the State courts already provide an adequate remedy, and that's why you voted against allowing toxic waste victims to go to federal court to sue?

CONGRESSMAN LUNGREN: That's true. I think a majority of the House of Representatives did that at least on one occasion on the Sawyer amendment, if that's the one you're referring to.

SENATOR TORRES: No, it was on the HR 5640 Superfund expansion, August 9th of 1984 where you voted against allowing victims of toxic waste spills to go to federal court.

CONGRESSMAN LUNGREN: Right.

SENATOR TORRES: And again I ask, what remedies are sufficient in State courts to make you feel that? What evidence was presented to you to make you feel that way?

CONGRESSMAN LUNGREN: My experience in State court. The ability to file --

SENATOR TORRES: You filed toxic waste actions?

CONGRESSMAN LUNGREN: You file an action in the State court just as readily as you could a federal court.

If you find that there is a problem in the State court where it does not allow a proper remedy, I would assume you, as a State Senator, would provide the leadership to make sure that that's taken care of on the State level.

It's been my experience that the courts are anything but reluctant --

SENATOR TORRES: I'm talking about --

CONGRESSMAN LUNGREN: -- to consider --

SENATOR TORRES: Mr. Lungren --

CONGRESSMAN LUNGREN: -- court action in a whole range of areas.

SENATOR TORRES: Mr. Lungren, I'm confident about my leadership in the area. What I'm not confident is about your leadership in the environmental area, given your record.

What you have done to assure that toxic waste victims on the federal level are going to be compensated for damages that they may incur as a result of negligent dumpers?

CONGRESSMAN LUNGREN: You and I obviously have a difference of opinion.

You obviously believe that the States are incapable of handling certain things. I happen to think they're capable of handling them.

Merely by creating a remedy in federal court does not give anybody the necessary opportunity to get their particular case resolved any earlier, any simpler or at a cheaper cost.

In fact, much of the debate in the House of Representatives and the United States Senate these days is of not creating more civil actions in federal court, but actually creating less. Allowing the States, which have matured over the years, so that they in fact can do far more than they did in the past in terms of giving people justice from a sense of Superior Court all the way to the Appellate Court to the Supreme Court of the State of California.

SENATOR TORRES: You said earlier that the public has a right to know when they're being exposed to toxic carcinogens and other harmful chemicals; correct?

CONGRESSMAN LUNGREN: Sure.

SENATOR TORRES: Why did you vote against an amendment to require companies to make public an inventory of their emissions of chemicals which were known to cause or suspected of causing cancer, birth defects, and other chronic diseases on December 5th, 1985?

CONGRESSMAN LUNGREN: The problem with that was that it was, in my judgment, too broadly based so that it would in fact be so broad in scope that the information available would not be of the nature that would assist people, but rather it would be of the nature that would confuse.

We have mandates for requiring information by certain producers, and I happen to think they're sufficient under the law.

SENATOR TORRES: Would confuse whom? The consumers because they don't know enough? Is that who you don't want to confuse?

CONGRESSMAN LUNGREN: In many ways that is the case.

SENATOR TORRES: My goodness. So you think that if I see a label that I'm not able to judge whether or not that product is going to be good or bad for me, if at least I'm aware that --

CONGRESSMAN LUNCREN: No, no. I didn't say that at all. You are mischaracterizing my testimony.

SENATOR TORRES: That's why you're here. Tell me why.

CONGRESSMAN LUNGREN: If you'll allow me to, I'll be happy to.

SENATOR TORRES: Absolutely, Mr. Lungren.

CONGRESSMAN LUNGREN: That particular amendment I believe you were speaking about required reports on emissions of almost any size and almost any chemical. It was not well drafted nor narrowly drawn.

It would have put a requirement with respect to small businesses, many of which would be incapable of making those determinations and burying them under an avalanche of costly new requirements and paperwork burdens without any sufficient information or remedy to the people involved.

One section of the bill itself, one section of that amendment would have mandated --

SENATOR TORRES: Which bill are you referring to?

CONGRESSMAN LUNGREN: You said the 1985, right?

SENATOR TORRES: Is that 2817?

CONGRESSMAN LUNGREN: It's 2817, the Superfund re-authorization. The vote on the Edgar and Sikorsi amendment.

SENATOR TORRES: Right.

CONGRESSMAN LUNGREN: Is that correct?

SENATOR TORRES: Uh-huh.

CONGRESSMAN LUNGREN: All right.

As a result of the broad language, it was feared by many that the requirement of small businesses, which at the very best would have been minute contributors to the problem, would have forced them to meet the same paperwork requirements as would the large firms that would be capable of doing that properly in the first place; and secondly, would be capable of, because of their size, being significant polluters.

The other concern many of us had was that the amendment was unnecessary. The Superfund bill already had extensive requirements with respect to public information concerning the release of hazardous substances, quote, "which are likely to cause an imminent and substantial endangerment to the public health."

We also had several other laws on the books that would cover ground staked out by the Edgar amendment, among them were Section 112 of the Clean Air Act, provisions of the Safe Drinking Water Act, and sections of the Resource Conservation and Recovery Act.

In other words, it was redundant; it was unnecessary; it was overly broad; it was bad legislation. I happen to believe

that some of us ought to be responsible in terms of our legislation, and we ought to be careful.

Additionally, I might tell you that the amendment was opposed by the National Association of Counties, the American Farm Bureau, the Association of American Medical Colleges, the American Council on Education, and the International Association of Fire Chiefs.

SENATOR TORRES: Yet it passed twice.

CONGRESSMAN LUNGREN: Most of those felt that it would have required such an onslaught on paperwork on local jurisdictions that they would not be able to handle it, and therefore they would not be able to do the job against the polluters that they ought to be able to do.

SENATOR TORRES: Yet a majority of your colleagues on December 5th and December 10th voted to support it.

CONGRESSMAN LUNGREN: That's fine. Wisdom is not always in the majority, as I'm sure you're well aware.

SENATOR TORRES: One last area of questions, if I may, let's move to the California Debt Limit Allocation Committee, if we will.

CONGRESSMAN LUNGREN: Sure.

SENATOR TORRES: You want to tell us what they do?

CONGRESSMAN LUNGREN: They're the ones given the responsibility for allocating that amount of debt that is available under various constraints; constraints some of which were not existent until changes in the federal law.

SENATOR TORRES: Which you voted for.

CONGRESSMAN LUNGREN: Which I -- I voted for a number of changes in the federal law. I did not vote for the changes as they came out of the House. I did vote them when they came back in conference after significant changes to that last tax bill made in the Senate.

SENATOR TORRES: On the '86 tax bill?

CONGRESSMAN LUNGREN: On the '86 tax bill; yes, sir.

SENATOR TORRES: So you know that there is a ceiling and how it's determined; is that correct?

CONGRESSMAN LUNGREN: With respect to private activity bonds; yes, sir.

SENATOR TORRES: I've prepared a chart for you. I'll make sure that you have an opportunity to see it.

What we've tried to do is to compare what powers Treasurer Unruh had, and then to elicit from you, if you can, what you would do in similar situations.

Now, in terms of the percentages, Treasurer Unruh in 1987 had a total of about 634 million for the two agencies that we've discussed, the two authorities that we've discussed. And many of those programs were programs designed for alternative sources of energy, for other types of areas.

In the housing field, which I know others will be speaking about, he spent a lot of his discretion in terms of where to build and where to provide low-income and moderate housing in terms of that.

In respect to education, that I'm particularly concerned about, he indicated 184 million in terms of facilities to help

build more schools, provide for more -- other types of areas related to capital outlay.

In terms of health, he provided at least 470 million in terms of building up of facilities in those areas.

In terms of economic development, which I know you're concerned about, especially for a number of areas, he put about 53 million in that area.

So, in other words, this is what Jesse Unruh did last time with this amount of money.

Given the fact that you've been at least designated as our next Treasurer for a number of days now, have you given any thought as to how you might look at the State of California and divide up this money or give us some general idea?

CONGRESSMAN LUNGREN: No, really, I haven't. I think to make such a judgment at this time would be premature, not only because I don't know if I sat down and went over the numbers for '87, whether I would absolutely agree or have some areas of disagreement with what Treasurer Unruh did, but as you know, from year to year you can have different requirements, and you can have different mandates, if you will, from the Legislature.

We have different problems. For instance, in the area of Health Facilities Financing Authority, one of the things we're going to have to deal with in a very up-front fashion is the tremendous impact on the health system of not only California but the nation of AIDS. How are we going to care for these people? How are we going to care for them in a humane fashion? How are we going to make sure that they have their needs taken care of?

And that is probably -- well, that very well may require the building of facilities dedicated to that particular purpose, or an extension of already existing facilities, in a way that I couldn't give you off the top of my head right now.

So, I really don't believe I could give you an honest answer.

SENATOR TORRES: All right, but you're familiar with this Authority?

CONGRESSMAN LUNGREN: Yes, sure.

SENATOR TORRES: In the briefing papers, did the Treasurer's Office give you a copy of this statement?

CONGRESSMAN LUNGREN: I'm not sure. They gave me so much, there might have been a page like that. I can't recall that specific page.

SENATOR TORRES: It's not in fact innocuous. It's a pretty important document, because it provides you with tremendous discretion and authority on how to spend a lot of money, billions of dollars in some cases, but you haven't had a chance to look at material?

CONGRESSMAN LUNGREN: I didn't say that.

SENATOR TORRES: So you have seen the material?

CONGRESSMAN LUNGREN: I think I indicated that to you.

SENATOR TORRES: What is your impression given that material? You said you saw it, but you think you need more study?

CONGRESSMAN LUNGREN: I'm not one who comes to decisions lightly or off the top of my head. I'm one who believes that you can study and study, and come up with recommendations.

When I went to the House of Representatives with respect to the question of immigration, I thought I had part of an answer to a problem. If you would have asked me at that time what are the overall parameters of that bill, frankly I could not have told you. That didn't stop me from providing leadership in coming up with the bill, first one in two generations, that I think helps solve the problem.

SENATOR TORRES: So Treasurer Lungren on Tuesday, today, has a question mark; wouldn't know what he would do with that.

Treasurer Lungren on housing right now doesn't know what he's going to do in terms of housing or have a specific area of concern.

Treasurer Lungren, by his very statements today, Tuesday, doesn't know what to do in health; hasn't given it that much thought. On economic development the same answer.

CONGRESSMAN LUNGREN: No, I didn't say that. You characterized about not giving much thought to that. That's your characterization, as you well know.

SENATOR TORRES: You have given it much thought.

CONGRESSMAN LUNGREN: I've thought a great deal about it, yes.

SENATOR TORRES: That's what we want to hear. What have you thought? What have you been thinking if you've given it a great deal of thought? This is your Authority which the issues report to.

It's important to all Californians. Sixty-seven percent of Republicans want tougher environmental protection. What have you been thinking about it? Tell us, please.

CONGRESSMAN LUNGREN: Well, if you want my general thoughts, my general thoughts are all of those are areas of reasonable activity by the bonding mechanisms established statute in the State of California, and I would carry those out. I understand the purposes very well, and I understand that those are things that we as Californians believe are necessary.

If you're going to ask me what percentage goes where, first of all I'm not prepared to tell you. And secondly, if I was, I think it would be inappropriate at this time to make some of those judgments without having the opportunity to really discuss with staff.

As you well know, my nomination is different than most nominations of the Governor. Most Nominees of the Governor take office, serve for up to a year, at which time or during which time they appear before this panel and are able to give you information based on their actual hands-on experience.

I'm in a different situation, as you well know, in which I do not take office until after 90 days has elapsed or other activities occur with respect to the State Legislature.

Therefore, I have been briefed. I have studied it, but as you know, briefing material and studying it versus hands-on experience is very different, number one.

And number two, the very worst thing I think you could do in terms of employee morale, morale of any agency or combination of agencies, is to make judgments without having had the opportunity to sit down and talk with the people involved.

I respect the people involved in every one of those Authorities. I respect the Treasurer's Office, and I happen to think it is my best interest and the best interest of the people of the State of California for me, once I'm in office, to sit down with those people, to counsel with them, to make judgments as to the value of their particular opinions, and then come up with decisions.

It may sound better politically to give you off the top of my head, you know, percentages --

SENATOR TORRES: No.

CONGRESSMAN LUNGREN: -- but I don't happen to think that is good government. It's not good business. It's not the way I do it.

SENATOR TORRES: So you're just saying: Trust me. Let me take office, trust me, and I'll take care of these problems.

CONGRESSMAN LUNGREN: I suppose much like Treasurer Unruh said when he was running before he got in that position. I doubt if he ever expressed precisely how those percentages would break down, nor do I think the office or anybody here ever asked him that.

SENATOR TORRES: Many of us did during the campaign, especially on education, and many people asked him about environmental issues, which I know that they have and they did. And they --

CONGRESSMAN LUNGREN: In terms of percentage breakdowns?

SENATOR TORRES: Yes, in terms of how much you're going to spend out there. What kind of direction are you going to

give, because, and lastly, what it comes right down to is this. Given your voting record, given your speeches, given where you've been, it leads us to believe that you're not going to be supportive of those issues which are important to 65-76 percent of Californians. And that is for stronger environmental laws, whether it's amendments on Drinking Water, which we can go on for hours, whether it's amendments on air pollution, whether it's amendments or bills on hazardous waste disposal, whether it's in terms of alternative energy resources.

You're asking us to believe that there's a different Dan Lungren here today now. Don't look at my voting record totally, because I can change my mind, you said earlier today. That I give thought to issues. I think you said you gave a lot of thought to issues.

CONGRESSMAN LUNGREN: That's right, but I didn't phrase it in the way you did, and you know that.

SENATOR TORRES: Oh, I'm sorry.

And so, given the thought that you do give it, sometimes you do change your mind, and that's important to know.

But what's also important to know is that these specific Authorities, there is some concern on the part of some of us who like to protect the environment as much as we can. We're not perfect; we can't do it all the time. But given the fact that you're going to be there is extremely important.

And one last issue which I think is important to raise, and that is people have been talking about a new California, where minorities will make up the majority population in the State of California.

You and I grew up in a state when that really didn't come into play for the most part, and you talked about your laudable commitments to minorities: your help with Asian students; your pro bono work in your district in terms of those issues.

What I'd like to know is then, how many Hispanics do you have on your staff in Washington or in Long Beach?

CONGRESSMAN LUNGREN: My total staff are thirteen. I have twelve full-time, one part-time. I have one female American Indian; I have two female Hispanics; I have one Japanese American female; I have one male naturalized citizen.

SENATOR TORRES: And the two female Hispanics, what role do they play in your office?

CONGRESSMAN LUNGREN: The one is one of my case workers in my district office. The other is my personal secretary in my district office.

SENATOR TORRES: So you have a secretary and a case worker.

CONGRESSMAN LUNGREN: Personal secretary; that's correct.

SENATOR TORRES: When you say that you have helped minorities, what steps have you taken in the Congress to help minorities in terms of education, loans and others?

Let me tell you why I'm asking this question, and it's an important question to me. Fifty percent of Hispanic youth in California today are not graduating from high school. That's a state problem that we've tried to address with some success, nonsuccess in others.

But it's also a federal problem. It's a national problem because there are young people across the country who are not graduating from high school as well.

What do I tell my constituents in East Los Angeles if I decide to vote for you and to confirm your nomination as Treasurer? What do I tell them as to what you're going to do for Hispanic America and Hispanic California?

CONGRESSMAN LUNGREN: I suppose you can tell them that I've always had an open door policy with respect to the way I run my office and the way I handle people and the way I deal with people. I try not to judge them on the color of their skin, or their nationality, background, and so forth. I try to judge them on merit.

I've had women run my campaign operations. We all know how important our campaign operations are. I hired women when I was told by some of the good old boys that they couldn't handle it; they couldn't cut it with some of the old politicians in my area and business people. I hired them even though they'd never had an opportunity to work before because I had faith that they had a -- if given a chance, they could prove themselves. They've gone on to become very successful political operatives since that time.

I've had naturalized American citizens who worked for me. One fellow started all the way from walking precincts with me and coming into the office to volunteer, to working as a staffer in my district office, to bringing him back to Washington to run my -- Washington, D.C. to run my office.

SENATOR TORRES: Where is he from? What country was he from?

CONGRESSMAN LUNGREN: He's actually from Holland. He's Dutch Indonesian.

I have had on my staff Japanese Americans ever since I started. I didn't hire them precisely because they were Japanese Americans. I hired them; they were good people; I knew them. They could do a job. They've been with me. They've done a fine job.

I've had Hispanics on my staff for the very same reason.

I wish I could tell you the answer to the question you've posed with respect to Hispanic educational achievement in this state. I don't know what the answer is. I wish I knew the answer. I'd be happy to talk with you at any time about that answer, because my district is impacted by that as much as any other district. We have Hispanic youth, some born in this country, some born outside this country, who have difficulty speaking English.

We have Southeast Asians in my district. We have the situation where children will show up one week and not be there the week after.

One of my sisters teaches in the Long Beach Unified School District. If she has an Anglo in her classroom, I'm not aware of it. She has Hispanic children; she has Asian American children; she has Black children. The one thing she said to me is, "Some of the people told me these kids couldn't achieve," and she said, "they're dead wrong." But you've got to work with them, and you've got to spend time with them.

If I knew of the absolute programs to do that, Senator, I'd be telling you what they are, and I'd be supporting those programs from day one --

SENATOR TORRES: But then why --

CONGRESSMAN LUNGREN: -- but I don't know what they are.

SENATOR TORRES: But then why, Mr. Lungren, did you vote against giving students financial aid in 1985 and '86? And why did you vote against re-authorizing student aid for five years again in --

CHAIRMAN ROBERTI: I appreciate your feelings on the matter, Senator, but we are moving a little far afield from the agenda for the Committee.

SENATOR TORRES: Mr. Chairman, if I may, this man may very well someday be Governor of this State. He said he would run if Deukmejian doesn't.

And it's important to me --

CONGRESSMAN LUNGREN: No, I didn't say that.

SENATOR TORRES: I'm sorry, I misheard --

CONGRESSMAN LUNGREN: If that's a nomination, I'd be happy to accept, but --

CHAIRMAN ROBERTI: That's why we have given you a little leeway, but we do intend to touch upon the aspect of civil rights, but not today.

Any other questions on the areas of energy and environment?

SENATOR TORRES: You have tremendous authority in terms of giving bonds and financing especially to small businesses who

may not have the economic capital under the Alternative Energy Sources Authority to seek grants in other areas.

What will you do to assure that minority firms -- and if I'm straying again too far please let me know, because this is directly related to the job of the Authority itself -- what efforts will you make to promote small business' ability to have pollution control financing opportunities?

CONGRESSMAN LUNGREN: Well, it seems to me that one of the things that we have a responsibility for in terms of many of these bonding authorities is to look at the overall impact of those bonding authority decisions. And by that I mean this. We should always keep in mind that when we have tax-free bonds of a private activity nature, for instance, that what you're doing is, you are granting a leg up, so to speak, with one group of people over the other. They're getting a benefit in the marketplace in terms of their bonds versus everybody else.

And therefore, the decision must be reached very seriously, and I think the Legislature does that. You don't allow tax-free bonds for anything and everything. You've made some decisions with respect to those areas that you would allow. And I think I would keep that in mind.

To the extent that we can increase minority participation in the construction of facilities, if that's what the bond is for, I think we have an obligation to do that.

I do not nor have I supported the idea of hard and fast quotas, but I have supported the idea of affirmative action in terms of goals, in terms of attitude, in terms of approach. And I would want to continue to do that in the future.

SENATOR TORRES: So under the statute -- and maybe you could take a look at it later; you don't need to take a look at it now -- establishing the common reserve funds for small businesses, which was established by the Legislature specifically to take --

CONGRESSMAN LUNGREN: Pardon me? I'm sorry, which one?

SENATOR TORRES: -- to take care of the small common reserve funds for the small businesses. It's Section 44548 of the Government Code, dealing with the Pollution Control Financing.

And my question is: you have tremendous discretion as Treasurer, and my question was again, how you will exercise it, and you say you won't have quotas, but you'll do everything you can to encourage minority firms to take part in energy and pollution control programs?

CONGRESSMAN LUNGREN: And I'll be open. I mean, I'll be open. I'm not going to close off people because they haven't done business before, or they haven't come up with a complete package in the past.

It seems to me one of the obligations we have is if the fact that they have not brought -- if they have a worthy program, if they've not brought forward a program in the future for some technical reason, for us to give them some technical assistance to make sure that they can rise above some mistakes. Not to say to someone, "No, we're closing you out because you weren't able to handle this in the proper fashion."

But perhaps if we have the ability, we have the capability, if we have the manpower, to step forward and say, "Here's the areas in which you were deficient. If you go forward and do these things, then you may be able to get it."

It seems to me that's the kind of openness as opposed to a closing off and saying, "Look, you didn't do it. Until you get it right, we're not going to look at you," et cetera.

CHAIRMAN ROBERTI: We'll have five more minutes on this area.

SENATOR TORRES: It's been 51 minutes now, and I'll be done with just one last question.

CHAIRMAN ROBERTI: In the debate, because we have other areas --

SENATOR TORRES: One last question then.

What have you done in the Congress in the almost 10 years that you've been there to implement that philosophy?

CONGRESSMAN LUNGREN: Well, one of the things I've done is, I have supported those efforts to bring the Members of Congress and their staffs under the same laws that we place everybody else under in terms of, you know, we're exempt from EEOC; we're exempt from OSHA; we're exempt -- I mean, we're exempt from every and anything.

It seems to me one of the things we ought to do is to say that if it's good enough for the rest of the country in terms of people to look at how our employment practices with respect to minorities are, it's good enough for the Members of Congress as well.

I have supported legislation in a number of different areas, but we're going to get into those later in the week in the area of fair housing, in the area of voting rights, et cetera, where I think I can point to with some pride my contribution to those particular areas.

Lastly, let me just mention one thing. I'd forgotten to mention this when you mentioned the bill dealing with civil lawsuits in federal court on Superfund.

At least one of those, I believe it was the Frank amendment, I was joined in my opposition to that amendment by Congressman Fazio, Congressman Coelho, Congressman Panetta and Congressman Dymally.

SENATOR TORRES: They're not up for Treasurer of the State of California, Mr. Lungren; you are.

CONGRESSMAN LUNGREN: I understand that, but I thought you were looking into my voting record and trying to extract some things to show my viewpoints on things.

SENATOR TORRES: As I would if they were up for confirmation.

CONGRESSMAN LUNGREN: I was trying to show you that other Members evidently shared my concern about the redundancy of the amendment before us and the ineffectiveness of the amendment.

SENATOR TORRES: I don't know if they felt that way or not. I'll have to ask them personally.

Mr. Chairman and Members, I appreciate the opportunity and your indulgence.

Mr. Lungren, I appreciate the opportunity finally to have met you and to have some interaction with you.

CONGRESSMAN LUNGREN: Thank you.

SENATOR TORRES: I hope you'll get back to me on some of those points that you said you would.

CONGRESSMAN LUNGREN: Thank you.

CHAIRMAN ROBERTI: Thank you, Senator.

We will now proceed to the housing portion of the hearing. There are a number of people who have signed up to testify, and I will call you in the order that we you signed in. I hope you have a copy of the agenda.

CONGRESSMAN LUNGREN: Mr. Chairman.

CHAIRMAN ROBERTI: Yes.

CONGRESSMAN LUNGREN: May I address the Chair?

CHAIRMAN ROBERTI: Please do.

CONGRESSMAN LUNGREN: I was under the impression, at least from discussions with staff, that I would have an opportunity for rebuttal at the end of different sections.

Is that incorrect?

CHAIRMAN ROBERTI: Yes, fine. Please --

CONGRESSMAN LUNGREN: Are we changing that now?

CHAIRMAN ROBERTI: No, please, you are right. You can rebut, and people hold their seats.

CONGRESSMAN LUNGREN: Mr. Chairman, I must take this time to respond at least in part Mr. Keene's recitation of a prosecutor's brief against my nomination, since I was under the understanding as of Friday in discussions with your staff that if

any statement would be made before mine, then my statement would go, and then we would immediately go into discussions of particular issues.

I don't know why the change was made, but it seems to me it would have been appropriate to notify us of that, or at least to give me an opportunity to respond.

One of the questions I would just have to pose to this Committee is the breadth of the alleged dissatisfaction with my positions. Senator Keene, evidently speaking for the Majority, took pains to criticize me because I supported the Governor's Transportation Bond program.

Yet it was brought to my attention that that very program passed the Senate on a vote of 27-8, with co-sponsors being Senator Keene and Senator Roberti.

Now, I'm not opposed to having people come up here and oppose me, but I find it strange for them to criticize me for taking the same position that they do and not to tell you about that very thing.

In terms of where I stand on the issues and my overall conservatism --

CHAIRMAN ROBERTI: I just would have to interject.

If you heard my speech on the Floor, which wasn't recorded in the annals of history, nevertheless my point was that the transportation crisis is as critical as any crisis can be. And the only option that the Governor has given us is the Transportation Bond, and not either a gasoline tax, or a form of fees or revenue bonds, and feeling that we had no other option,

the Democrats, a number of them, voted for the Governor's Transportation Bonds.

And it was in the spirit of being cooperative with the Administration and not because we liked the bill. And I think you could check any of the press clippings of that day, and that will corroborate that.

CONGRESSMAN LUNGREN: Well, Mr. Chairman, I see you find yourself in the same position I've been in here.

CHAIRMAN ROBERTI: All the time.

CONGRESSMAN LUNGREN: You find people talking about your record, and believing that as a co-author of a bill, that you supported the bill.

I understand you had problems with it. I've had problems with various positions I've had to take. And I guess that's one of the things we understand as fellow Legislators. Oftentimes just taking a vote and putting it up there on the board, and trying to draw conclusions from it can be rather disconcerting, if not misleading.

There was an occasion in which he suggested that somehow the Congressional Quarterly has rated me one of the four most conservative Members of the House.

I am a conservative. I plead guilty to being a conservative. Unfortunately, I'm not one of the four most conservative Members of the House. I've got the CQ here. I'm not even in the top ten for the last two years or, I believe, in the top twenty.

The whole point is, I don't know why he felt it important to say that I am Numero Uno up there in the highest percentile. It just seems a bit of a stretch as to some of the criticism as well.

Mr. Chairman, with respect to the question of my stand in the area of the environment. I have tried to explain to this Committee that as you pursue questions of the environment, you also pursue questions of the budget. Almost every single question that's been brought up here today has been a question of the budget.

I happen to believe, as one of maybe the few supply-siders -- I plead guilty to being a supply-sider as well. I've been trying to talk Jack Kemp for a numbers of years into the fact that you can be a supply-sider and still concerned about deficits, and I think we're moving him in that direction, but hopefully it helps in the New Hampshire. I'm not sure if he came to that position early enough.

CHAIRMAN ROBERTI: We'll see.

CONGRESSMAN LUNGREN: The point I'm trying to make is, if you believe in a budget that ought to be balanced or close to balanced, you ought to vote in that direction.

And I have voted time, and time, and time again against programs which otherwise may be worthy, but in which we have spent too much, extended ourselves too far, or upon which we cannot create more programs because we simply can't afford it.

I'm the father of three children. At Christmas time, when my children come to me and tell me all the toys they want,

it's a very easy thing to say no to them if, in fact, they are asking for harmful toys. The tougher question as a father is to say no when they ask you for a whole series of presents that are good, may even be educational.

But I have never felt that I was anti-children, anti-my children, anti-family because I happen to believe that we could only afford a certain amount and not something beyond that.

And I happen to think until we in the Congress take that very same attitude, we will have busted budget after busted budget after busted budget.

One of the things I've been criticized for is my vote on the Clean Water Act. And people want to know why last year I voted to sustain the President's veto when in fact I voted for the bill in its final form as it came out of the House. It came out of the House at $12 billion -- or excuse me, it came out of the House at $18 billion. The President agreed to a $12 billion bill, which would have been a significant increase over prior years.

It was my hope that by sending the bill down to the President, if he were to veto it he would signify in his veto message a commitment to signing a bill, even with the other substantive changes we had in the law, that was in the range of $12 billion. The President gave that indication; therefore, I supported him on that.

Some mention has been made on my votes on the Superfund. I supported the original Superfund when I got into the Congress of the United State, despite some concerns about some poorly

drafted sections. I supported two sections of what -- two bills which essentially were part and parcel of one another: the basic Superfund and a bill for cleanup of oil and chemical spills on navigable waters. I happen to be in an area where we're very concerned about that. We drill oil in my district; we also have a lot of tanker traffic in my district. It was extremely important, in my judgment, that we create on the federal level a program to clean it up.

It went to the Senate. The Senate said, "We're not going to deal with the oil spill question on waters." They'd refused to do it in the previous Congress; they refused to do it in that Congress, and they said, "Take it or leave it; just a simple one part of the Superfund."

I was one of those who believed that if we voted no, we would have forced the Senate to accept the second part of the package because the issue was too big for them to duck. In fact, we were in Congress for about three weeks after that. So I voted against it on that occasion, not because I was against the Superfund, but because I was against the emasculated Superfund program that had been established.

My point is, I take very seriously the environment. I also happen to take very, very seriously the budget. On several different issues over the years, I've been -- I've received compliments from the Sierra Club, the National Audubon Society, the National Wildlife Federation, and others for my stands against boondoggle pork barrel projects -- some cases dams, some cases new waterways around the country -- because they were not

consistent with the policy, national policy, that had been established. And what is that policy? Cost effectiveness, which includes the consideration of environmental impact.

In fact, in 1984, I voted in support of three major amendments to the omnibus Water Resources bill: the MacKay bill, the Hopkins bill, and the Petri bill. In this letter I received from the National Audubon Society, they say this: "You braved the Black Spot."

Now, you wonder what the Black Spot is. What happened was, the Committee out a list of Members of Congress who had major projects in their district who would dare to support these amendments. Black Spots were put by your name if you dared to support those amendments with the idea that you would lose those particular projects.

I happen to be in an area where I represent two major ports. I happen to represent part of Orange County, where the major public works project to come down the pike in the last hundred years is the Santa Ana River Project, which would take care of the second largest flood potential in America, the worst flood potential west of the Mississippi. Virtually all of my constituents, or 70 percent of my constituents in Orange County would be under water if we have the 200-year Flood. We came pretty close just a couple years ago; people aren't aware of that.

And the threat was that if we dared to support these programs on environmental and cost grounds, we would subject our own programs to being taken off the table.

Mr. Chairman, I just didn't believe that that was the proper thing to do, and I went ahead and I fought them. We defeated some of those, and I'm proud of that particular vote.

I have voted time and again to cut back on projects that were not environmentally sound. I've looked at them project by project by project. The Garrison Diversion up in North and South Dakota, which could result in the loss of wetlands to tremendously impact on many of the wildlife in our country, has been something that's come up again and again and again.

And lastly, I would just point out this. I was trying to explain to Senator Torres my position on that Clean Air amendment. That was an extremely important decision that we had to make: How did we balance off the need for us to clean our air in Southern California with the tremendous economic devastation that would take place if the current Clean Air levels were imposed by deadline? We'd have to do things that would devastate the economy in Southern California. That's not the way to go about doing it. If you did it, in fact, the people would probably react so adversely, we'd lose any chance of cleaning up the air, or making major strides toward cleaning up the air.

We were under a lot of pressure to extend it 21 months, to really give them some long time lead so that they would have a chance to come up with some sort of formula, as long as we had some progress towards significant diminution of our air pollutants.

But some of us got together and decided that eight months was more appropriate because it kept -- yes, it did keep

the hand of the federal government on local and State government, I'll admit that. Sometimes that's necessary. But it kept it on in such a way that it would lead towards some sort of practical solution as opposed to posturing, which would leave us with no solution at the end of that time.

Mr. Chairman, I'm proud of my record on the environment. I'll bow to no one in my concern on the environment. I was born in Long Beach; I've lived in Long Beach all my life; my kids were all born in Long Beach. The best thing I love doing is body surfing down at the beach. Nobody here is going to tell me that they enjoy the beach and they enjoy California better than I do. Nobody's going to tell me that they are more concerned about the environment I leave my children than I am.

Thank you very much, Mr. Chairman.

CHAIRMAN ROBERTI: Thank you, Congressman.

The next group of witnesses will regard housing and the Treasurer's duties for housing. The first witness we have is Cushing Dolbeare, Founder and Chairperson of the Board of Directors of the National Low-Income Housing Coalition in Washington.

Ms. Dolbeare.

MS. DOLBEARE: Thank you very much.

I have some charts that I'd like to use if they could be distributed.

I appreciate very much the invitation to testify today on the importance of dealing with low-income housing. I want to address my remarks primarily to recent trends in federal

assistance for low-income housing, their significance for State and local governments, and to Congressman Lungren's voting record in housing.

I've been active as a consultant on housing and public policy for -- in one form or another for over 35 years. I should mention that my affiliation with the National Low-Income Housing Coalition is accurately stated, but it's for identification only. The Coalition does not take positions on Nominees for State or local offices. So, we have no formal position as a Coalition on Congressman Lungren's nomination.

The charts that I have provide information on national housing needs and national housing programs. And in that respect they're misleading because an analysis I did back in 1984, which generated something we referred to as the Rental Housing Crisis Index, indicated that the housing situation in California, depending on which year you take, in 1980, the New York housing crisis in the State of New York was somewhat more severe than in the State of California. By 1985, the State of California had, by our estimates, the most severe housing problems of any State in the country.

There were three-and-a-half low-income families in the State of California for every rental unit in the inventory here in California that was affordable to them. So that even if everything else had been perfect, even if there were no discrimination, even if the units were the right size and location, even if they were all standard quality, there would still be more than three families needing housing for every unit that was available in the inventory.

As you can see from the charts, and I'll go through them very quickly in the interests of time, on the first page there's a chart showing what I refer to as the Rental Housing Gap. And these are national figures. The top chart: Households with Incomes under $7,000. At 30 percent of your income at $7,000, you can afford $175 a month for rent and utilities. And as you see, starting in 1980 and projected to 1990, there is a slightly declining of households, renter households, in that income category, but there is an inadequate, more rapidly declining number of units.

Move up the income scale a little bit. You see substantially the same picture. Whereas back in 1980 there were a few more units than household with incomes under $10,000, by now there's a gap of over 2 million, and by 1990, there will be a gap of 4 million units.

The next chart on the back of that page shows shelter costs as a percent of income for renter households in 1983, when the last annual housing survey was taken. And the heavy black shows by income the households paying more than 35 percent of their income for shelter. And as you can see, the lower your income, the more likely you are to be paying an unaffordable rent-income ratio.

I might mention that I was an alternate member of the Housing Commission which President Reagan appointed shortly after he took office. And that Commission concluded that 30 percent of income was the maximum that a family could afford to pay for housing. So that this should not be a controversial finding,

that 35 percent of income or more for shelter is more than low-income families can afford.

The next chart shows the portion of poor households; that is, households with incomes below the poverty level receiving various kinds of housing assistance, and it's shown as a portion of eligible households so you don't see as many households in the housing bar because those are only renter households. We have no programs to provide assistance for low-income homeowners.

But what is also clear is that fewer people receive housing assistance, fewer people with incomes below the poverty level receive housing assistance than receive food stamps or Medicaid or school lunches.

And below that, you see the proportion by race of households with incomes below the poverty level who are receiving housing assistance. And again, it's only a tiny portion of the total number.

Given the inadequacy of our housing supply on the next page, even so -- the subsidized housing supply -- you'll see that subsidized housing is almost two-thirds of the units renting for less than $100 a month in 1983, and is a declining portion of units as rents rise up to $300, which is still, of course, in today's market, a relatively low rent. And then below that, you see by income, again, the number of renter households living in assisted housing.

And I think the point should be clear that with all of the efforts that the federal government has made over the last 40

years to provide housing assistance, that assistance has been and still is inadequate.

I want to spend just a little more time on the final page of charts which shows what has been happening to federal housing programs since 1976. 1976, you may remember, was the last year that President Gerald Ford was in office. It's also the year when we had the highest number of assisted housing reservations for HUD and Farmer's Home Programs that we have ever had since subsidized housing programs began in 1937.

Since then you see sort of a ragged line up to 1981, which was the last fiscal year, sort of a mixed-up fiscal year because most of it was Carter Administration, but there were some recisions under the Reagan Administration. And then under the Reagan Administration you see that the level is substantially lower. And indeed, in 1983, we had a net loss of 5,000 housing units subsidized through HUD programs, although rural housing programs of the Farmer's Home Administration remained relatively speaking at fairly stable levels.

The bottom chart on that page shows the type of assisted housing. The solid black lines show additions to the supply of low-income housing; the crosshatch lines show existing housing and vouchers. This has been a long area of discussion among housing advocates.

To me, the question of whether you add to the housing supply or make better use through vouchers or rent certificates of the existing housing stock is a little bit like asking whether it's more important to have a right leg or a left leg if you're going to walk somewhere.

If the stock exists, of course it makes sense to utilize it. If the stock does not exist, you have to find some way of adding to it.

As you can see, in the last few years the additions to the stock, either through construction or rehabilitation and these are HUD programs again -- have been very, very tiny, and the bulk of assistance has been providing certificates or vouchers to families to attempt to find housing. And the attempt often fails in the existing rental housing stock without expanding the supply of affordable housing for low-income people.

The final page shows two charts that put in dollar terms our federal housing programs from 1980 through fiscal 1988. And I should mention that fiscal 1988 figure is the Reagan Administration's budget request, not what was finally enacted in the continuing resolution.

The high figures across the back, the bars in the very background, the long bars do not show up in the budget except as a matter of information. They represent the official estimates by OMV and the Treasury Department of the cost to the federal Treasury of the various deductions and incentives that are provided for housing under the Internal Revenue Code; 90 percent of that cost is in the form of homeowner deductions for mortgage interest, property taxes, or special kinds of capital gains exemptions, or deferrals that go to homeowners.

The next line, the solid black, is what is termed budget authority for additional assisted housing. And that is the critical figure for expanding the amount of long-term housing

assistance. The budget authority is the total commitment in any given year of subsidies which get paid out whenever the housing is occupied for the length of the subsidy contract. It can be 15 years; it used to be 20 years or 30 years or even 40 years. Under the Administration's voucher program, it's 5 years.

And finally, the lines in front, and you can see that the budget authority has diminished rapidly in the last several years. And finally the line in front our outlays or payments that have been made for subsidized housing which is currently occupied. And you can see that is rising and has risen very slightly because, under the Ford and Carter Administrations, we had large numbers of units authorized. Under the Reagan Administration, Congress, ignoring the President's budget requests, authorized a smaller number of additional units so that we have now slightly more occupied subsidized housing units than we've ever had before; and therefore, the flow of subsidies has increased.

The bottom chart shows an analysis as of 1980, but I think it would not be substantially different today, of households by income and housing subsidies. The distribution of housing subsidies if you include the subsidies that are made available through the tax system.

One of the very few things which I agree with David Stockman about was in the first budget that he submitted in his analysis of tax expenditures, he said, "We've just got to realize that a subsidy that's provided through the tax system is just as much a subsidy as if Congress authorizes and Treasury sends out a check."

Twenty-five percent of all households in 1980 had incomes under $10,000. They received 13 percent of the housing subsidies.

At the other end of the income scale, the top 27 percent, those with incomes above $30,000 received two-thirds of all housing subsidies.

I recognize that it's hard to find money, but it's much easier to let a traditional program which costs a lot of money go on, as the homeowner provisions of the Internal Revenue Code have been allowed to continue, than it is to find money to meet more critical housing needs.

I wish now to turn to Representative Lungren's voting record in housing, and I'd like to make a couple of preliminary comments.

I mentioned I've been active in housing for over 50 years, and for even longer than that. The progress which we have made in low-income housing in this country has been a result of bi-partisan cooperation. When I first became involved in housing, Senator Robert Taft, who was then known as Mr. Republican and who was the conservative Republican who was not nominated the year that Ike was nominated for President, was providing considerable leadership in housing legislation. The Housing Act of 1948 bore his name. Other significant pieces of housing legislation bore his name. He advocated that 10 percent of all housing construction in this country should be in the form of low-rent public housing.

Somewhat later than that, Senator Edward Brooke of Massachusetts, another Republican, provided consistent leadership on housing issues. And in fact, became the first chairperson of the National Low-Income Housing Coalition and still serves as our honorary chairperson.

In the House of Representatives, the ranking Minority Member of the Housing Subcommittee, William Widnall, provided leadership in housing. And more recently, Representatives McKinney, Green, Roukema, and Chalmers Wylie in various ways have collaborated in bi-partisan efforts to obtain housing legislation. And Senators Garn and D'Amato in the Senate over the last several years have exercised the kind of leadership in housing advocacy that was necessary to turn the Reagan Administration's budget requests, which from a period of 1983 through 1987 -- these are fiscal years -- totaled minus $10 billion. That is, the cumulative amount was a recision of $10 billion in funds that had already been appropriated into appropriations which were enacted and approved by the President that totaled $47 billion dollars.

That could not have been done just by House Democrats. that could not have been done without bi-partisan support.

And I make that comment as a background because this kind of leadership in housing in a bi-partisan way is critical. And there have been through all of the last 30 years, 35 years that I've been involved in housing, Republicans who have played critical roles in providing that kind of leadership and support.

It would not be reasonable, in my opinion, to anticipate that Representative Lungren, since he does not serve on the Banking Committee or the Appropriations Committees that deal with housing, could reasonably be expected to offer that kind of leadership.

However, his voting record in housing, which I have analyzed, is, I would think, somewhat ominous from the point of view of one who takes seriously the need at the federal and the State and local levels to do much more than we have been doing to meet our low-income housing needs.

The one area that does fall within the jurisdiction of the Judiciary Committee is Fair Housing. And there I think it's appropriate to say the record, at best, is mixed. When Fair Housing was on the Floor of the House in 1980, Representative Lungren voted for final passage of the bill, but he also voted for a series of amendments which had been opposed on the enforcement provisions by advocates of strengthened Fair Housing legislation. It's possible for reasonable people to disagree on these issues, but I think it's significant, nonetheless, that the major vote which Representative Lungren cast in favor of Fair Housing was on final adoption of the bill, and on the amendments that -- on which there were roll call votes on the Floor, he was almost without exception on the opposite side of the one that was favored by the Coalition of Civil Rights Organizations, which was pressing for strengthening the Fair Housing law.

Representative Lungren has also joined in what I would describe as the onslaught of the Reagan Administration against

low-income housing production and rehabilitation programs. And in the face of this onslaught, Congress has repeatedly attempted to enact legislation which would continue the programs and appropriate funds for those programs. And with one major exception, Representative Lungren has opposed those authorizations. The major exception came this year when, after a series of lengthy negotiations --

CHAIRMAN ROBERTI: Came this year?

MS. DOLBEARE: This year, 1987, we do have a housing law which the President just signed, which Representative Lungren supported in its final form. However, when the bill was on the Floor in June, he voted against the bill. He voted in favor of a substitute which would substantially have incorporated the proposals of the Reagan Administration. He did, as I mentioned, vote for the bill, as did 395 other Members of the House of Representatives. Only one Member of the House opposed the adoption of that bill this year.

He voted against the so-called McKinney bill which would have provided -- which did provide a series of programs for emergency assistance to the homeless.

Last year, 1986, when housing authorizations were on the Floor, Representative Lungren voted again in favor of a substitute which would have incorporated the Administration's provision which called for deep cuts in the programs. He voted for a motion to resubmit. When those two motions failed, he voted against adoption of the bill.

Back in 1983, we did get sort of a piece of housing legislation. It was attached to another bill which was attached to a supplemental appropriation bill. Representative Lungren voted no on the adoption of the rule to consider the bill. He voted yes on an amendment which would have prohibited rental housing development grants to be used in areas with rent control. He voted yes on an amendment to strike the housing development grants and Section 235 home ownership authorizations, and instead put the money into Section 8, existing housing certificates. He voted yes on an amendment to remove the ceiling on FHA interest rates. He voted no on passage of the bill. He voted no on attaching that bill to the piece of legislation which finally was passed, but he did vote for that piece of legislation once it came up for final adoption, a supplemental appropriation, a re-authorization of the Export-Import Bank International Monetary Fund and Housing Legislation.

On appropriations for housing, it's difficult to get an entirely clear picture because housing appropriations come in two forms primarily. They come for the Farmer's Home Administration, which carries rural programs as part of the Agricultural appropriations bill; they come for the Department of Housing and Urban Development, which is the major work horse of subsidized housing in the HUD Independent Agencies appropriations bill. But the Independent Agencies also include such large agencies as NASA and --

CHAIRMAN ROBERTI: We appreciate your testimony, Ms. Dolbeare, but we're going to have to maybe cut them all a little bit short.

MS. DOLBEARE: Okay, I'll just wrap up in less than that.

The HUD appropriations also includes appropriations for NASA and EPA, so they're not always clear-cut votes on housing.

However, since 1982, Representative Lungren has only voted once for adoption of a HUD Independent Agency appropriation bill.

In 1984, he voted no on a supplemental bill which would have released $1½ billion in budget authority -- actually $2½ billion, two different forms of budget authority -- for subsidized housing. That bill was adopted by the House by a vote of 340-55, with 113 Republicans voting for it; only 43 voting against.

He has voted against the conference report and final passage for most of the other appropriations acts.

One thing is very clear, the changes that have come in housing in the last several years. Now only is the housing crisis tightening, but it's very clear that States will have a much more significant role to play in housing. There's a bi-partisan effort now underway to draft new housing legislation, and it seems clear that that housing legislation will give much more important roles to State governments than State governments have had in the past, even though federal funding is likely to be continued and increased.

And it's critical, therefore, it seems to me, that State officials be knowledgeable about and sensitive to and care about low-income housing, and that they commit themselves to exercise

leadership in dealing with low-income housing issues if we are going to avoid a continuing increase in homelessness and the kind of breakdown in family life that you get, not just from homelessness but from overcrowding and from being forced to live in substandard housing.

Thank you very much.

CHAIRMAN ROBERTI: Thank you, Ms. Dolbeare.

Any questions? Senator Petris.

SENATOR PETRIS: In your recitation of the record of bi-partisan support going all the way back to Senator Taft, where would you put Congressman Lungren based on his voting record? Is he within that bi-partisan effort? Is he with the majority of his party on most of these issues, or is he not?

MS. DOLBEARE: He has been with the -- I should make clear that I did not check on how often the majority of the party, the Republican Party, voted with the Republican leaders who worked on housing.

Certainly within the last few years, the majority of the Republic Party has not been supportive of low-income housing initiatives, and therefore Representative Lungren has been very clearly within the mainstream of the Party for the most part. Or, where they have supported low-income housing issues, with the one exception that I mentioned of voting for the housing bill this year, he has been, in terms of progress on housing, I would say behind the rest of the Party.

CHAIRMAN ROBERTI: In California -- and maybe when you conclude, Congressman Lungren, you can address this -- you will

be sitting on the Mortgage and Tax Allocation Committee, which I understand assigns housing tax credits or regulates that law and assigns credits to developers, and also once again, on the State Debt Limit Allocation Board, which will set priorities, housing being one of them.

So, we are concerned that the Boards that you will be sitting on with some discretion may put you in a policy position to not follow through on the housing priorities of the Legislature, especially low-income housing.

I'd like you to address that when you conclude, Congressman.

CONGRESSMAN LUNGREN: Okay.

CHAIRMAN ROBERTI: Senator Petris.

SENATOR PETRIS: Couple other questions.

You classified California as having the most severe housing problem.

What, if anything, is being done in Congress in the last year to alleviate the problem that we have everywhere in the nation, but especially in California, on the expiration of the old programs that are now 20 and 30 and more years old, where subsidized housing is going to go back on the market and displace a lot of people?

MS. DOLBEARE: There is a title in the Housing Act which was just signed by the President last week which addresses that, which basically requires that where owners have the potential of prepaying their mortgages, which is the term that is used when the use restrictions have expired, that they must present a plan

in order to be able to prepay their mortgage, which in effect holds harmless those tenants.

Now, that's a short-term solution. That's going to be in effect for two years. Nobody knows how well it's going to work.

I happen to be a member of a commission which was convened by the National Housing Partnership, which is chaired by former HUD Secretary Carla Hills and former Congressman Henry Royce, to deal with this issue. We were asked by both Committees of Congress to make some long-term recommendations.

It's very clear that this is a critical problem, and unless something is done, the number of subsidized housing units will stop increasing gradually, as it has been, and start declining quite rapidly beginning in 1991.

SENATOR PETRIS: The conversion you referred to in the charts, what does that mean?

MS. DOLBEARE: That's primarily conversion of rent supplement units to Section 8 or units that had been subsidized under the Section 236 program. In effect, it's been transferring units from one subsidy program to another, so I've listed it as conversions because it doesn't create any additional units, but it does obligate additional funds in some instances.

SENATOR PETRIS: And Congress is empowered to do that without going back to the President?

MS. DOLBEARE: No, all of these appropriations which have been enacted, and this has all been a result of appropriations action except for some of the provisions in the

'83 Act and now the '87 Act, those have been appropriations bills: either free-standing appropriation bills or parts of continuing resolutions which have been enacted by the Congress and signed by the President.

SENATOR PETRIS: I read in the paper when the new Housing Act was passed providing some $30 billion over a period of time, years, I guess --

MS. DOLBEARE: Uh-huh.

SENATOR PETRIS: -- that a lot of the advocates were unhappy with the amount in view of the need.

What was the amount that was requested?

MS. DOLBEARE: Well, it's a little more complicated than that, Senator, because the way in which we subsidize housing requires obligations of massive amounts, and a great many of us feel that there are less expensive ways of providing housing subsidies: through capital grants; perhaps through housing block grants; through other mechanisms. And Senator Cranston and Senator D'Amato of New York, the ranking Minority Member of the Senate Housing Subcommittee, have appointed a commission and have commissioned a series of papers to address the most effective way of providing additional housing assistance.

I think the significant fact to keep in mind is that we now have approximately 4 million subsidized housing units. In 1980, President Reagan's Housing Commission identified a need on behalf of 7½ million very low income renter households for subsidized housing, which they could not get because the housing did not exist. So that even under those Reagan Commission

estimates, we would need to triple the number of subsidized housing units, or we would have needed to back in 1981, to fully meet the need.

I hope it's clear from my charts that unfortunately the need has been growing since then.

SENATOR PETRIS: Thank you.

CHAIRMAN ROBERTI: Senator Ellis.

SENATOR ELLIS: Ma'am, do you know what the cause is for the decline in the availability of low-income housing?

MS. DOLBEARE: The chief cause has been inflation, and particularly over the last several years, inflation and utility costs. And even though costs of oil have been dropping, a great many low-income people heat with gas, and so those rates have continued to rise.

What you have is a combination of things. Most of the low-income housing is in the private sector. And if it's going to stay occupied, the owners are going to have to get a reasonable return on their money. Some of them find that they can get a greater return on their money by converting the housing to higher income occupancy, or to condominiums, or selling the sites; some of them simply find that they have to raise the rents beyond affordable levels in order to continuing providing the services to keep the housing occupied. So that what you have is a series --

SENATOR ELLIS: All right.

MS. DOLBEARE: -- of things which increase costs.

SENATOR ELLIS: If they raise it too high, then nobody will rent the unit; will they?

MS. DOLBEARE: Well, it's even worse than that.

What you have is a system in housing where housing filters down so that as it gets old, the rent's lower, but at a certain point it filters out because you simply can't lower the rents any more, yet those rents may be a couple of hundred dollars, and you have families that can only pay $100 a month. That's 60 percent of their income.

SENATOR ELLIS: But what I was saying was that if you have -- let's take $200 a month and say that is a figure we'll use.

If the landlord has it rented at $200 and raises it to $300, nobody rents it, then is the landlord liable to reduce that rent?

MS. DOLBEARE: It doesn't happen --

SENATOR ELLIS: It's better than nothing.

MS. DOLBEARE: You're quite right, as a matter of economic theory. It doesn't happen in the rent ranges that low-income people can afford to pay. It begins to happen at rents of $700, $800, or $1,000, or whatever, where you can go above what the market will bear.

But particularly in California, from what I understand -- and while I'm not a Californian, my son has been for about 10 years -- if you can get an apartment for $300 in San Francisco, you're lucky and you take it.

SENATOR ELLIS: I don't think you can.

Have you had a chance to look at the comparisons of low-income housing and the homeless in those areas where they have rent control?

MS. DOLBEARE: No, I haven't. I'm aware of areas where there are severe problems of homelessness where there is also rent control. I'm also aware of other areas where there is not rent control where there are equally severe problems.

I tend to feel that the major impact of rent control is not at the bottom of the market, but more in the middle-income area. Doesn't seem to have much impact as far as I can see on the supply of or need for low-income housing.

SENATOR ELLIS: I'd like to provide you with an article that the San Diego Union had last week, and I distributed it to all the Members of the Legislature.

The bottom line was that there are more homeless in areas where there's rent control than there are homeless in places where there are not rent controls. But I'd like to give that to you.

MS. DOLBEARE: I'd be delighted to see it.

SENATOR ELLIS: Have you been able to determine -- maybe this question is not statewide, I mean nationwide, but it's probably statewide -- where certain cities and counties are imposing growth control restrictions, and they're doing it by restricting the number of homes and rental units that can be built? Does that have any correlation between lack of housing, available housing?

MS. DOLBEARE: It doesn't really at the income levels that I'm talking about.

Remember, I'm talking about people with incomes below the poverty level. I'm talking about the 25 percent of renter households that have incomes, or in 1983 had incomes below $5,000 a year.

The place where growth controls hit, and they are a major problem and I think something should be done about them, is in the area where if you had less restrictive controls, the private sector could lower the cost of housing and it could become more affordable. So that you're finding that luxury housing, maybe, is being built instead of housing which could be afforded by professional people with a reasonably good income.

But it's a major housing problem, but it's not in any areas that I know of, a low-income housing problem. There are low-income housing problems where there are specific restrictions in areas that say, "You cannot build a subsidized housing project here." And there's been litigation on that which indicates that it is unconstitutional.

CHAIRMAN ROBERTI: Thank you, Ms. Dolbeare. We have 12 other witnesses for today, so we hate to cut you short.

MS. DOLBEARE: Thank you very much.

CHAIRMAN ROBERTI: Next witness is Mr. Marc Brown, Staff Attorney with the California Rural Legal Assistance Foundation.

MR. BROWN: Mr. President and Members, I'm Marc Brown with the California Rural Legal Assistance Foundation.

On behalf of the Calitornia Coalition for Rural Housing and the California Rural Legal Assistance Foundation, we wish to express our strong opposition to the nomination of Dan Lungren as State Treasurer.

We oppose the nomination because Mr. Lungren's voting record on housing and homeless issues over the last five years places him not in the mainstream of Members of Congress, but often a corner with some of the more extreme Members of Congress.

The State Treasurer plays a critically important role in the State of California on housing issues. This role derives in large part from membership on a number of important housing committees, agencies and commissions.

First of all, there's the Chairmanship, as was mentioned earlier, of the California Debt Limit Allocation Committee, which in 1987 divided $1.9 billion in bond authority among competing programs, including housing.

There's also the Chairmanship of the Mortgage Bond and Tax Credit Allocation Committee, which last year allocated $908 million in mortgage bond authority, and up to $65 million in federal and State low-income housing tax credits.

There's also membership on the California Housing Finance Agency, which is issuing $606 million in mortgage revenue bond financing for low and moderate income housing this year.

There's also Chairmanship of the Housing Bond Credit Committee which approves the amount and timing of CHFA bond issuances, and finally, Chairmanship of the Debt Advisory Commission which monitors and analyzes all debt issuances by public agencies in the State.

CHAIRMAN ROBERTI: Which is that last committee?

MR. BROWN: It's the Debt Advisory Commission, which has a role in reporting on -- the local agencies report to that commission on what types of financing they're doing, and then that commission analyzes in a nonpartisan, independent way, supposedly, what types of projects were done, whether it's low-income, what the income limits were, the duration time period that they're --

CHAIRMAN ROBERTI: After the Governor, is there any official as important as the Treasurer in housing statewide?

MR. BROWN: I would say that he would play, obviously the key role on that as well.

CHAIRMAN ROBERTI: So as far as housing is concerned, you would say that the Treasurer is the key --

MR. BROWN: Absolutely.

CHAIRMAN ROBERTI: -- statewide official?

MR. BROWN: Absolutely.

These committees do these types of things: they allocate the bonding authority, as was indicated on that chart; they authorize the issuance by local governments of mortgage revenue bonds; they control the amount and timing of when bond issues are sold; they authorize the expenditure of bond proceeds from specific housing projects so they get into the allocation of tax credits or bonding authority with CHFA for specific types -- for specific projects, rather; and they monitor, as I said, public at issuance and provide, supposedly, independent policy and analysis to the Legislature and public.

Other people today after me will focus on some of these different committees. What I wanted to focus on is the California Debt Limit Allocation Committee. This is a three-member committee comprised of: the Governor, serving as Chairman -- I mean the Treasurer serving as Chairman; the Governor; and the State Controller. This CDLAC, as it's called, allocates private activity bond authority under the State limit for committed uses, including housing.

This past year, as I said, it allocated $1.9 billion in bond authority under the State limit that is established by federal law. This limit has been declining in recent years -- in 1985, it was 3.8 billion; in 1987, as I mentioned, 1.9 billion -- because the Tax Reform Act of 1986 at the federal level has put severe restrictions on tax exempt bond authority. In 1988, the State bond limit will decline again to 1.3 billion. So needless to say, this is going to make the allocation decisions all the more difficult and all the more important.

Housing in this context will be competing with: mass transit; with water facilities; hazardous wastes; redevelopment; and other types of purposes. This year, we got approximately 46 percent of the total of funds available into the area of housing; 908 million out of the total available of 1.9 billion.

So, the Treasurer on this committee is like a gatekeeper that provides almost life or death authority over the issuance of housing bonds and --

CHAIRMAN ROBERTI: These are not general obligation bonds?

MR. BROWN: They're tax exempt mortgage revenue bonds.

CHAIRMAN ROBERTI: Passed by the State government, by the State Legislature or local government?

MR. BROWN: Authorized in legislation by, say, for example, the California Housing Finance Agency, or at the local level by the various laws that have been passed empowering local governments to issue mortgage revenue bonds.

This committee will then allocate to these various purposes and authorities a certain amount of that $1.9 billion allocation.

This gives a huge amount of power, because you've got developers that come in and want to develop housing, and tax exempt housing financing is critical to making these programs work. And as the amount of money that's available becomes less and less available, we're looking at giving a huge amount of power to the Treasurer and to this committee over whether we can develop housing for low and moderate income people.

We believe that given these powers, that the Treasurer ought to be concerned with and share as a goal the primary purposes of housing on the commissions on which he sits. This goal, as we see it, is to meet the housing needs of working families and the poor in this state, and unfortunately Mr. Lungren's record indicates that he does not share this commitment.

Cushing Dolbeare went over and amplified Congressman Lungren's voting record on housing and homeless issues. We believe that shows a consistent opposition to governmental programs designed to promote affordable housing.

CHAIRMAN ROBERTI: Do you know of any homeless bill that Congressman Lungren has ever voted for?

MR. BROWN: Not yet.

CHAIRMAN ROBERTI: How many have there been before the Congress?

MR. BROWN: We looked at approximately 40-50 votes on housing and homeless bills in the last five years and saw only a small handful in which we got a sympathetic vote out of the Congressman.

And it's a little complicated, as Ms. Dolbeare said; you've got three or four, five or six amendments leading up to a final vote, and when it becomes clear that the bill is going to pass, the Congressman might have, you know, gone along with that. But in the process of those damaging amendments, he's been in there supporting those.

Just to point out a couple of the votes -- and again, the most alarming aspect to us is not just opposition. We came into this expecting votes of 220-190, things like that. What we found was votes of more like 300-50.

Congressman Lungren voted against HR 1, the Housing and Community Development Act of 1986, which is, as Cushing Dolbeare explained, the major authorization bill for low-income housing, federal and rural housing programs, housing for the elderly and handicapped, first time home buyers, working families, and the poor. The bill passed the House on a vote of 314-19, with Mr. Lungren voting no.

Mr. Lungren also voted against HR 517, an urgent supplement appropriation for low-income housing programs which passed by a vote of 340-55. And I could on with examples of votes like that.

Cushing Dolbeare focused on the housing needs at the federal and State level. Let me just give a few quick numbers on the problems at the State level that we have.

You're looking at California having the largest homeless population of any state in the country; surpassed New York in that; 200,000 roughly we find homeless in this state. Approximately 30 percent of those who were families with children. You're looking -- it was also stated that California having the largest rental housing shortage of any state in the country. We have 790,000 more very low income households than there are affordable housing units.

The result of this is that we have approximately a million elderly, handicapped and other low-income households that pay over 35 percent of their income for housing, which leaves little other resources for other needs. And as was pointed out by Senator Petris, this shortage threatens to get much worse if we lose the 123,000 federally subsidized housing units that are eligible to be converted to market rate in the next 20 years.

It also is a problem, I might add, that affects the middle-class, in that only a third of our young families can now afford the average median-priced home in California.

So, the Treasurer has responsibility for a wide variety of programs and activities that are intended to expand the supply

of low and moderate income housing. And a Treasurer who has an adverse view towards governmental efforts to promote affordable housing could exercise that power and influence to impede the programs.

Therefore, it's important for the Committee to determine what the Congressman's views are on the appropriate role of providing housing for affordable housing.

On the use of tax exempt bond financing for both public and private purposes, to determine the priorities that the Congressman would give to various types of housing -- such as low-income housing, moderate-income housing, elderly and handicapped, rental and home ownership -- and whether or not bond proceeds under the California Debt Limit Allocation Committee should continue to be targeted to low-income housing.

Finally, a point that we're particularly concerned with is the Congressman's position on a pending measure in the Legislature, SB 1692 and 1693, which would increase the supply of low and moderate income housing for the homeless first-time home buyers and the elderly and handicapped by providing for and authorizing a bond issue of $850 million. This legislation creates a Housing Committee that's composed of: the Treasurer, the State Controller, and three other appointees of the Governor. The Committee has authority to determine whether or not it's necessary to issue bonds and the amount and timing of when those bonds will be sold. The program would also require an allocation of tax exempt financing from the California Debt Limit Allocation Committee.

The Treasurer, we are concerned, who has a history opposing affordable efforts by government, could exercise his power and influence to frustrate and impede this program, so we think it's important for the Senate to ensure that the Nominee for Treasurer will support and carry out this legislation.

In summary, the Treasurer plays a powerful role, a very critical role, with a lot of discretion in allocating State and federal housing resources. Congressman Lungren's voting record shows a hostility to housing, we believe, and we think we can reasonably expect that Congressman Lungren would use the Treasurer's Office to impede the State's effort to promote affordable housing.

For those reasons, we oppose the nomination.

CHAIRMAN ROBERTI: Thank you very much, Mr. Brown.

Any questions?

MR. BROWN: Thank you very much.

CHAIRMAN ROBERTI: Thank you.

Next is Ms. Celeste Cantu, Executive Director of Imperial Valley Coordinated Housing Authority and former member of the Board of Directors of the California Housing Finance Authority, the Imperial Valley.

MS. CANTU: Thank you, Senator.

I'm going to speak to the Treasurer's role as member of the California Housing Finance Agency, as Chair on the Housing Bond Credit Committee, and as Chair on the Mortgage Bond and Tax Credit Allocation Committee.

California Housing Finance Agency sells bonds to finance housing construction for low and moderate income families in California. CHFA finances construction, rehabilitation, and the purchase of housing for low and moderate income people. CHFA is the nation's largest issuer of housing revenue bonds, because the volume of the bond dollars handled by the agency, its overall influence in housing, exceeds that of the State Department of Housing and Community Development.

In fiscal year '87-88, CHFA expects to be involved in the production of approximately 4,000 housing units. So as you can see, we look to CHFA as one of our major resources for affordable housing in the State of California.

At the monthly meetings, decisions are made determining: priorities between rental housing and home ownership units; where the money will be spent, for example, shall we make an investment in San Jose or in Fresno; and what the price range of that completed unit will be -- shall we address the very low-income, the moderately low-income, simply the low-income people, or moderate-income people.

Although the Treasurer is only one --

CHAIRMAN ROBERTI: Could the Treasure decide that investments should take place in area where there is no rent control as opposed to where there is rent control?

MS. CANTU: For that issue on the Board, the Treasurer would be one of eleven votes. However, as only one of eleven votes, in reality the position of Treasurer brings to that Board more than one vote, and that is because he's also Chair of the

Housing Bond Credit Committee. In that position, his vote has additional weight of that office.

The Housing Bond Credit Committee reviews all CHFA's bond issuances. It may approve, reduce, or change the timing of the sale if it determines the sale would subject the State's credit to undue risk. So, the situation would arise if the Treasurer voted against a particular project because of rent control, whatever reason it may be, and for some reason the motion carried, at the stage where it went before the Housing Bond Credit Committee, you could almost see a veto at that point. So he has a double chance to vote on an issue. The dynamics are such that if the Treasurer expresses concern about a bond issue, such as the size or the timing, the balance of the CHFA Board could defer to that Treasurer, knowing that he could kill the sale at the Housing Bond Credit Committee.

You can see that the Treasurer has tremendous influence on both the CHFA Board and at the HBCC. It is important that he share a commitment to provide housing assistance to low and moderate income people in the State of California.

If the Treasurer's priorities fall elsewhere --

CHAIRMAN ROBERTI: Senator Petris.

SENATOR PETRIS: Sorry to interrupt you, but as I understand it, the Housing Bond Credit Committee has a veto over the recommendations of CHFA on the allocation of bond money for housing; right? Is that what you're saying?

MS. CANTU: The Housing Bond Credit Committee must review and approve any bond issuance that CHFA will bring to market before it goes to market.

SENATOR PETRIS: What happens when that's rejected? What if they reject a particular proposal?

MS. CANTU: CHFA cannot go to market, cannot sell bonds. Without bond financing, the programs will not implemented.

SENATOR PETRIS: So they'd have to come back with a different emphasis, or a different proposal?

MS. CANTU: They would have to take into considerations whatever concerns were articulated by the HBCC and accommodate them.

SENATOR PETRIS: What's the Treasurer's position on that Committee? Is that one of the chairmanships the Treasurer has?

MS. CANTU: It is.

SENATOR PETRIS: Is that why you say it's very influential?

MS. CANTU: Yes.

SENATOR PETRIS: It's not just being a member or being the chairman of that by statute?

MS. CANTU: That's correct.

SENATOR PETRIS: Thank you.

MS. CANTU: If the Treasurer's priorities fall elsewhere, he can delay, reduce or prevent the bond sale and therefore prevent one of California's largest housing programs from being implemented.

The Treasurer also Chairs the Mortgage Bond and Tax Credit Allocation Committee. The Committee must review every mortgage revenue bond for housing to be issued by any agency in the State of California. As a housing authority, I would go to

this Committee and compete for the small amount of allocation given to housing.

In addition to this Committee -- in addition, this Committee reviews applications from builders throughout California, and from my area, for allocation of tax credits. As Chair --

CHAIRMAN ROBERTI: Which board does this now?

MS. CANTU: This is the Mortgage Bond and Tax Credit Allocation Committee.

As Chair, the Treasurer can delay allocations, using a variety of his powers as Chair in that position.

The Treasurer's position impacts housing at many junctures. Because housing now competes with industrial development and other ventures for the small amount of tax exempt financing, it is imperative that the Treasurer have a sensitivity for those people who find themselves homeless and for low-income people needing safe, sanitary and decent housing in California.

From Mr. Lungren's Congressional voting record, he demonstrates to us that he does not have that sensitivity or that commitment. Housing is not a priority for him, and the low-income people in California will suffer if he is confirmed.

CHAIRMAN ROBERTI: Thank you very much, Ms. Cantu.

Just on one of these boards that you spoke of, the Housing Bond Credit Committee. Is that dealing with general obligation bonds, or is that just --

MS. CANTU: I believe they address only mortgage-backed tax exempt bonds from the California Housing Finance Agency.

CHAIRMAN ROBERTI: And to whom does the money from these bonds go to, developers? What's the process of the money?

MS. CANTU: There's historically a variety of programs. The people who come to CHFA with projects are nonprofit sponsors, for-profit sponsors, developers, first-time home owners, housing authorities, a variety of people who are in the industry of providing low and moderate income housing.

CHAIRMAN ROBERTI: And to receive the bond money, the board, which I take it is composed of eleven members on --

MS. CANTU: Eleven members on the California Housing Finance Agency.

CHAIRMAN ROBERTI: -- has a great deal of discretion then?

MS. CANTU: Clearly.

CHAIRMAN ROBERTI: To which types of low-income housing will receive the money?

MS. CANTU: Clearly. I remember heated debates on exactly what income sector shall we target, and the concern being if we targeted the very low-income, that that fact may have an adverse effect on the credit rating of our bonds and of the State of California. And we look to the Treasurer for direction in those debates.

CHAIRMAN ROBERTI: He's the Chairman?

MS. CANTU: No.

CHAIRMAN ROBERTI: He's not the Chairman? Who is the Chairman?

MS. CANTU: The Governor appoints the Chairman of the California Housing Finance Agency.

CHAIRMAN ROBERTI: But how about the other two agencies you spoke to?

MS. CANTU: He serves as Chair.

CHAIRMAN ROBERTI: Those are the Mortgage Bond and Tax Credit and the Housing Bond Credit Committee?

MS. CANTU: Right.

CHAIRMAN ROBERTI: How many members are on the Housing Bond Credit Committee?

MS. CANTU: I believe there's four or five: Governor, Controller, Director of Finance, Treasurer, and the Chairman of CHFA on the Housing Bond Credit Committee. And on the Mortgage Bond Tax Allocation, I believe there's three.

CHAIRMAN ROBERTI: And the board which makes the discretionary judgments on the kinds of housing that will receive the money, which board is that?

MS. CANTU: Housing Bond Credit Committee.

CHAIRMAN ROBERTI: Thank you very much.

Any further questions?

MS. CANTU: Thank you.

CHAIRMAN ROBERTI: The next witness, after whose testimony we will take a break, is Mr. Howard Gong, Fund Manager of the California Equity Fund in San Francisco.

MR. GONG: Thank you, Mr. Chairman. My remarks are brief.

The California Equity Fund is an investment partnership sponsored by the National Equity Fund, a nonprofit organization. The California Equity Fund was created to raise investment capital from California-based Fortune 500 size corporations to invest in low-income housing in exchange for federal and State and local housing tax credits.

Last year, the National Equity Fund raised $14¼ million from 13 corporations situated throughout the United States. Those monies in turn went to the funding of 25 projects which raised over $60 million in development capital.

Our goal in 1988 is to raise $10-20 million investment capital in California alone for California projects.

I'm here today to testify as an expert witness on the importance of the State Treasurer in the Mortgage Bond and Tax Credit Allocation Committee in the production of low-income housing. Our organization has no position in support or opposition to Congressman Lungren.

As the manager of a fund that involves corporate investors in the production of local housing, what we see is a critical need for leadership and the Mortgage Bond Tax Credit Allocation Committee be actively involved in promoting what ostensibly is a very difficult, complicated program for the production of housing.

As the previous speakers have mentioned, the Mortgage Bond and Tax Credit Allocation Committee is the entity which allocates tax credits to projects. It is comprised of the State Treasurer as Chairman, the State Controller, and the Governor.

Unlike the previous tax-oriented housing programs where a developer, having met the minimum qualifications established by either the federal government or the IRS, has by rights the ability to take certain tax benefits, such as accelerated depreciation. The developer of a low-income housing project under the tax credit program needs to secure an allocation from the State's Mortgage Bond Tax Credit Allocation Committee as part of the development process. In other words, in addition to the real -- the very complicated process of securing land, arranging for private or public financing and other subsidies, we added a new element to the production of affordable housing, which is getting a tax credit allocation.

Without credit allocation, no investor will invest their funds in the project, the deal will never get consummated, the project is never built.

As the controlling body for the distribution of tax credits, the Mortgage Bond Tax Credit Allocation Committee can affect virtually all aspects of the ease and effectiveness in which tax credit projects are developed.

At the policy level, the Committee, for example, can determine the priorities upon which tax credits are given. Last year, fortunately or unfortunately, only $8 million in projects were presented to the Committee in which they had over $60 million worth of allocations. If the rumors from the marketplace are correct, we expect to far exceed that in terms of projects coming before the Committee this year, and in fact may have an over-demand for tax credit versus the supply of tax credits we

can give. So, clearly the policies that are established by the Chairman of the Committee will determine to a great extent what types of projects are funded.

At the administrative level, the Committee through its chairmanship will handle all the somewhat administrative and even mundane aspects of the Committee that have a great deal of impact upon the effectiveness of the production pipeline. For example: how often does the Committee meet; what type of underwriting standards will be set; whether or not they're asking for lots of fees and which nonprofit sponsors can't pay. All those things, again, which drastically affect the efficiency and effectiveness of the Committee.

Finally, at the technical level, the Committee is involved in providing interpretations in regulatory documents that, again, greatly affect the effectiveness of my -- groups such as my fund in raising investment capital. One brief example is an issue that was raised by our attorney relative to the issue of what liability corporate investors would have for the permanent long-term affordability of the project. Clearly, we want to see projects that are permanently affordable, but obviously from an investor standpoint they would like to know that if they were to step away from the project, they would carry no personal liability.

We're working with the Committee currently, and it's those types of technical issues that require an affirmative, problem-solving attitude if we're to create a program that makes use of the tax credits.

It's in that last respect that I want to conclude my remarks. It's that we have an opportunity now to attract a significant amount of private investor capital for the production of low-income housing. I agree with the previous speakers that there's no substitute for direct government expenditures, but as they say, if all we have are lemons, we'll make lemonade. And if we're to do anything in terms of affordable housing, it's going to require the use of programs such as tax credits and an aggressive leadership in the administration of tax credits that's going to make projects happen.

Thank you.

CHAIRMAN ROBERTI: Thank you very much, Mr. Gong.

Any questions? Senator Ellis.

SENATOR ELLIS: Are you for or against confirmation?

MR. GONG: My organization has no position on it.

SENATOR ELLIS: Okay.

CHAIRMAN ROBERTI: Before we break, I'd like to just raise the point, and maybe the Congressman can review it, or we'll give you a little time to look it up because I know it's very difficult to review votes on the spur of the moment.

But I was given a list of about, oh, I don't know, about 20-some odd bills, some of which I think were more of an omnibus character, but some of which were votes on homeless and housing. In most cases, except for one vote here, you took an oppose position from the proponents in the legislation or the proponents of more government assistance to housing.

One was a 1987 vote, which I think has been raised, HR 558, the Emergency Homeless Assistance Act, which is now law and was passed by the House 264-121.

Another was HR 1 of 1986, which failed, on which you voted no, and a subsequent amendment by Representative Wylie to eliminate a number of housing programs and reduce the budget for low-income housing, the amendment failed but you voted for it.

In 1984, the Second Supplement Appropriations Act, which included $70 million emergency assistance for the homeless, you voted no, and that bill currently is law.

HR 5713, the HUD Independent Agencies Appropriation bill, which is currently law, you voted no, and the vote was 282-110.

HJR 517, which is currently law, which was a House passed resolution for low-income housing, which currently is the law, and that vote was 340-55, and you voted no.

The Dannemeyer -- excuse me, that's more of an omnibus bill so I won't raise that one.

HR 2617, a comprehensive bill providing for the weatherization of 13 million low-income dwellings over a ten-year period, you voted no on the legislation and that bill failed.

You did vote for the Child Abuse Prevention and Treatment Act, which was a good bill. That was HR 1904 in 1984; however, in 1983, you voted against the Housing and Community Development Act regarding low-income housing and homeless programs.

You voted against the current law, the Domestic Housing and International Recovery Act, HR 3959. You voted against the Job bill which is currently law, HR 1718 in 1983, to provide, again, $4 billion for emergency assistance for the homeless. And you voted no on HR 1983, the Emergency Housing Act of 1983 to provide shelter for the homeless, which did not pass.

Finally, you voted against foreclosure relief in 1983 for unemployed veterans, and that bill, I believe, became law with a vote of 394-23. You were one of only 23 votes of no.

The long and short of it is that just from my own perspective, there's no issue more important to me than housing. And it seems that the Treasurer, having such wide discretionary powers on the boards that he sits, it would concern me that you would employ for discretionary powers in a somewhat philosophical position or philosophy that is evidenced by your votes.

With all due respect, Congressman, some of them sometimes taking a somewhat extreme position; for example, voting against foreclosure relief for unemployed veterans when you were only one of 23 votes to do that. And others, generally to the homeless, where almost it's consistent that your votes were opposed to federal relief for the homeless.

And I say that with all respect for your philosophical positions on the voting records, and I'd certainly like to give you some time to respond.

We have other witnesses, and we'll start with Ms. Kay Knepprath when we return from a recess of ten minutes.

(Thereupon a brief recess was taken.)

CHAIRMAN ROBERTI: The Committee will come to order.

The next witness is Kay Knepprath, the Northern Director of the California Homeless Coalition.

Ms. Knepprath.

MS. KNEPPRATH: Yes.

My remarks are brief, but they are mostly having to do with the California Housing Finance Agency.

I am Kay Knepprath. I'm the Director of the California Homeless Coalition, here today representing the Coalition and asking that you reject the nomination of Congressman Lungren as Treasurer of the State of California.

Among the many duties of the Treasurer is his or her position on the Board of the California Housing Finance Agency, California's major effort to date in creating affordable housing.

Mr. Lungren's voting record in the House of Representatives, which has been outlined for you previously, clearly defines his position on government involvement in relieving the housing crisis for low-income people. He has consistently voted against such programs.

Despite the myriad stopgap homeless programs now available, homelessness continues to increase. The long-term goal of the Homeless Coalition is to create housing programs to accommodate all of those would seek shelter.

We do not believe that Mr. Lungren shares that goal, and in fact would use this position with the CHFA to thwart the goal. His agenda as expressed by his voting record does not allow for the spending of public funds for housing.

You may recall that Governor Reagan was adamantly opposed to the creation of the California Housing Finance Agency and vetoed the bill when it first passed the Legislature. California was one of the last industrial states to set aside a portion of its resources for this purpose.

The California Homeless Coalition respectfully asks you to reject this Nominee and to use your influence to encourage the Governor to nominate a person who recognizes the necessary role of government in providing low-income housing.

CHAIRMAN ROBERTI: Thank you very much, Ms. Knepprath. We appreciate your testimony.

Any questions?

Hearing none, we'll proceed to the next witness, the Honorable Arcadio Viveros, Mayor of the City of Parlier.

Mayor Viveros, are you in the audience? Was he in the audience, does anyone know?

Congressman, you can conclude now.

CONGRESSMAN LUNGREN: Thank you, Mr. Chairman.

Mr. Chairman, let me just try and go through as briefly as I can a number of the points that have been made and try and touch on the bills, or at least some of the bills you've mentioned. I didn't get them all down, but a few of them.

First of all, let me go back to some of the things said by some of the previous witnesses.

I just find it interesting that I am criticized for supporting bills when it didn't matter, when there was a large vote in favor of it, but then criticized when I happened vote against a bill in which there was a large number in favor of it.

I would just hope that people would look at my votes pure and simple and see where I voted, and I'll be able to accept and respond to the questions about those particular bills. For instance, on the question of the Fair Housing bill, I was one of those who actually worked on the Fair Housing bill from the committee level all the way to the Floor of the House of Representatives.

I supported a number of amendments which I happened to think were not only appropriate, but would enlist increasing numbers to support the Fair Housing bill. The Fair Housing bill did not pass the Senate after it passed the House. It was my hope that we would get a bill in the law. And I was concerned that the lack of some of the amendments that I supported would in fact mean that it would be defeated in the Senate or not considered in the Senate, as it was.

I happen to believe in the idea of fair housing and stricter federal enforcement and penalties involved in fair housing law. I do it for a couple of reasons. One, it's the right thing to do; and two, I felt an obligation to myself that if I did not support busing, and I do not support busing, I had to go the next step and not only be against busing, but promote some things that would assist in the enforcement of fair housing so that in fact people could live in the neighborhoods which they wanted to live in.

One of the biggest arguments for those of us who were against busing was, children ought to be able to go to neighborhood schools. That fine, as long as you're able to go to

neighborhood schools, but to the extent that discrimination takes place, it's sort of half a promise, a convenient half a promise.

So I committed myself to try and support and pass a Fair Housing law.

One of the amendments for which I'm criticized, and I realize that it was brought up here, is the so-called Synar amendment, an amendment by the gentleman from Oklahoma, Mike Synar who came to Congress at the same time I did, serves on the Judiciary Committee for the same number of years I have. He had a little different idea of how you go through the enforcement mechanism: whether you use ALJs or whether you use actual federal judges. Whether you use Administrative Law Judges, which are administrative personnel, not true judges in hearing these cases, and then enacting penalties all the way up to quasi or real criminal penalties.

It was my feeling that, as much as I wanted the enforcement of the law, it was important to make sure that those accused of violating the law with the tremendous penalties involved have the right to be heard by a judge as opposed to an ALJ. Now, that may be a controversial position, but I will tell you that the Synar amendment passed the House of Representatives 205-204. Now how am I out of the mainstream when I supported the 204 as opposed to the 205?

Another amendment went to the question of whether appraisers could consider certain things in reaching their appraisal, including mentioning the fact there might be a Catholic church in the neighborhood. Some people thought that

was unfair because that would promote discrimination because people who happen to be Catholic, or Polish Catholic, would want to go to that neighborhood and others wouldn't.

We put in the amendment very careful language to suggest that if was used as a ruse to promote discrimination, you couldn't use the information, and the appraiser could be held responsible for violating the Fair Housing Act.

But it seemed to me to be nonsensical to say that they couldn't mention that a Catholic church was nearby, or a Jewish synagogue was nearby, or that it happened to be a predominately Polish neighborhood, or predominately Irish neighborhood, or whatever. It seemed to me that we are more mature than that, and we can handle things in a more sophisticated fashion than that. And if in fact it was used as a ruse for discrimination, under those circumstances someone would be allowed to be called into account, including the appraiser, and be called a heel for violating the federal law.

That was one of the amendments that I supported, spoke on the Floor for, which people are now saying was to gut the Fair Housing bill.

I'll be happy to debate that amendment at any time.

CHAIRMAN ROBERTI: What was the specific wording? Can you remember what the specific thrust of the amendment was?

CONGRESSMAN LUNGREN: The specific thrust of the amendment was to allow appraisers to bring that into consideration.

CHAIRMAN ROBERTI: But what was the specific wording, if you have it?

CONGRESSMAN LUNGREN: As a matter of fact, if I can find it here, I've got it. I've got even some of the debate language here.

Well, let me continue. I'll get back to that for you, but I can give you the specific language.

In fact, that bill was hung up the next year in the United States Senate.

Following that, I went to the Administration, along with two or three other Members of Congress on the Republican side of the Judiciary Committee, and said, "We ought to be affirmative and not defensive about this, and we ought to have a Fair Housing bill that the Administration supports that we think can get consensus, broad support, so that we can pass it, so it should be nonpartisan or bi-partisan as opposed to partisan."

We worked for six months and came up with a bill. Unfortunately, it was never considered by the Judiciary Committee. Now, I can give you some reasons why I think that's the case, but that's really not the point here.

The point is, I wanted the Administration early on, in support of a Fair Housing bill with increased enhanced enforcement, so that it was not a symbolic gesture by either side to say that one was for Fair Housing and the other one was not. To this very day, we have not passed a Fair Housing bill, but I have supported efforts to try and make sure that that were the case.

With respect to the amendment on rent control limitations, there was a consensus in the Congress that areas that had rent control, by studies that had been engaged in by the Congress or commissioned by the Congress, resulted in less housing availability for low and moderate income housing individuals.

Now, maybe you disagree with that, but that was the finding of the federal studies that were done. Based on that, Members of Congress decided that we ought not to support a federal program in an area that had rent control for the very purpose of undoing what the federal program was supposed to do. I happen to think that is within the proper ambit of judgment on the federal level.

With respect to the question of the availability of low-cost housing, one of your chief spokesmen or spokeswomen for the proposition here was asked by Congress -- by State Senator Ellis, "What is the major reason for the lack of low-cost housing. Why has it dried up?"

Her remark was, was I heard it, "Inflation."

I will stand here and say to you, Mr. Chairman, that nobody in the House of Representatives can say they have a better record in the House of Representatives on voting to bring inflation down. Inflation is brought down by an overall fiscal policy, in my judgment, which I have supported on the federal level to bring down unnecessary government spending, to try and create incentives in the Tax Code that are legitimate incentives that take away loopholes, but rather go to the question of specific economic decisions, that create jobs.

And we've seen the inflation rate go down since many of the proposals I supported went into effect, from 12.8 percent -- 12.8 percent, in fact, in May of 1980, the inflation rate was 18 point something percent. Many people were suggesting it was on its way to 20 percent. Now, it's a little higher than I'd like it right now. What is it, 4½ percent this year?

But if inflation, as stated by the advocates of low-cost housing, is the major reason for the unavailability of low-cost housing, I'll place my record against anybody for my votes to bring inflation from 20 percent or 18½ percent down to 2-2½ percent for several years, and now it's 4 percent.

The other thing is, if there is not an impact on low-cost housing and on jobs, particularly at the unskilled and first skill level of rampant illegal immigration, I don't know what is. I believe that in the long-term interest of the nation, it was important for us to control our borders, not because I'm against immigration. I support continued immigration. But as Father Hesburgh of the University of Notre Dame, former head of the Civil Rights Commission, and the head of the Presidential Commission established by President Carter, said on the question of immigration, "We must close the back door of illegal immigration if we're going to hold the front door of legal immigration open."

And the point is, and we had testimony on this from the NAACP time and time again, that a major negative impact on the ability of inner city youths to get jobs, and inner city males to get jobs, was the impact of rampant illegal immigration.

I felt we had to do something to stop that in the future, while at the same time treating humanely the people who were here. And I have supported those efforts.

Another impact on low-cost housing in our state is the impact of new immigrants, newly arrived immigrants, particularly refugees. And I will say to you that nobody in the Congress did more to maintain the programs at the levels that were capable of being maintained. I never went for every last dollar that some in California wanted because I knew we couldn't get it. I went for the top dollar we could get that I knew we could get to sustain programs. And I would say, Mr. Chairman, that has been to the assistance of low-income families across the State of California.

There is a difference, I would say to you, Mr. Chairman and other Members of the Committee, between the federal level and the State level. And I've always kept that in mind. And there are certain obligations on the State level that I'm not sure we are either prepared or capable of handling on the federal level.

And sometimes, when we've begun a start, when we've given some infusion of funds in certain programs, we expect, I think legitimately from the federal level, to have the State and the local governments take a bigger share because frankly, we cannot do it all.

I'll tell you about some of the people that I've been concerned about in terms of low-cost housing. When I came to Congress, a large number of the young men and women enlisted in the military in California, and particularly in my district

assigned to Long Beach Naval Station, qualified for food stamps and welfare payments and inadequate housing.

I've worked diligently within the federal government to raise those standards to attempt to treat young men and women who were among the most poorly paid a few years ago, who enter our service, in a humane way so that they do not compete unnecessarily for low-income housing in Southern California, so they do not qualify for food stamps and welfare payments, and therefore are put off, one against the another, within the same programs. I worked very, very hard to get specific housing projects through in my district for the military, despite the fact in some circumstances I did not get original acceptance by the City of Los Angeles, for instance, who didn't want us to have housing in certain areas.

Mr. Chairman, I would just like to tell you that in my own particular district, I think I have worked as hard as anybody else to get federal projects, particularly for senior citizens. When I first -- in my first couple of years in the Congress, there was a project in Long Beach known as the Lutheran Towers Project. What had happened was, under the Carter Administration, they had drawn up new guidelines for that particular project in concert with their national guidelines. Those guidelines included a number of things, including balconies on all of the apartment buildings; including underground parking; including a massive communal room that was much larger than ever would be necessary.

When the Reagan Administration came in and tried to have more units for less cost, they put new standards. And the people at the Lutheran Towers came to me and said, "Here we've got a building where we've put balconies on at the request of the prior Administration that no longer can qualify now. We've got underground parking, which is the most expensive parking you have, which they said you can't use now. And we've got a communal room that's far too big. What do we do?"

And I got them together. I got the City Manager of Long Beach to get in on the meeting. We got the architect. We got the regional HUD administrator, and I got the Number Two man at HUD to work together to specifically work at that particular time to work out the differences.

We did a number of things. We brought the cost per unit down. We managed to put two or three additional units in, taking up space that otherwise was going to be used by the communal room, even though we continued with the communal room. And we got rid of some of the underground parking. We got more bang for our buck; we got more senior citizens available for the program.

I've been a member of the St. Mary's Hospital Housing Authority to get a senior citizen project. One of the things I had to do was to find out whether I would be in violation of the law or conflict of interest, being a Member of Congress dealing with those and, at the same time, being asked to serve on the Board. And I found out it was okay. We worked very hard to get that.

I worked very hard to get the Long Beach Western Orange County Jewish Community Federation to qualify for senior citizen housing. And probably the least wealthy, if you want to call it, area of my district, Lomita, I worked very hard to get the first two senior citizen housing projects that we've had in terms of federal funds in those areas. I worked directly with the mayors of those particular communities as well as the city council.

So I have worked to try and get specific housing projects in my area to fulfill a need that I found there.

I have also on the federal level tried to make difficult decisions with respect to budget concerns. Just as I mentioned before, when I sit on the permanent Select Intelligence Committee, we make very difficult decisions with respect to what we can afford and what we cannot afford in the long-term national security interests of the United States. I try and do the very same thing in terms of housing projects.

I'd like to turn to a couple of programs that you mentioned, unless you want to go to the witnesses at this point.

CHAIRMAN ROBERTI: Well, why don't we go to the witnesses and you hold that.

CONGRESSMAN LUNGREN: All right, thank you.

CHAIRMAN ROBERTI: Thank you.

The next group of witnesses will deal in a somewhat related area of business development. The first witness is Mr. Irving Lai, National President of the Chinese American Citizens' Alliance.

MR. LAI: Mr. Chairman and Members of the Senate hearing committee, I bring you greetings from the Chinese community. Today is actually New Year's Eve. I want to wish you Happy Chinese New Year, [Chinese phrase].

The Year of the Dragon is 4686, the year of 4686. I wish you all prosperity and good health.

Mr. Chairman, I'm the National Chairman of the Chinese American Citizens' Alliance. Our organization was established in 1895 in San Francisco. In the last 93 years, our organization has organized seven local lodges in California and many throughout the United States. I believe we are one of the oldest national Asian American citizens' civil rights organizations in this country.

We are bi-partisan organization. We have many second or third generation Americans, plus many new immigrants and others that are considered associate members.

We believe in our organization to practice the principle of charity, justice, brotherly and sisterly love, and fidelity among the members and its community. Our goal and philosophy reflects our past actions and experience to fully enjoy the right and privilege in our obligation as good citizens.

I'm also a past President of the Chinese Chamber of Commerce of Los Angeles, and also the President of Board Members. We are involved in business in Los Angeles, Southern California area. We have people that -- bankers, large businesses, importers, exporters, professional people, real estate developers, and many others.

My occupation, I'm in the construction business. I'm a general contractor and also air conditioning and refrigeration, plus real estate development.

Based upon this background, that's the reason why we are so concerned on this particular appointment. We are ever vigilant of positions or offices in society and government that may affect the general welfare and happiness and livelihood of the members of the community.

I wish to render our opinion and decision to this Nominee of the great office of Treasurer in California. We feel this is a very powerful and extremely important office, and its actions and decisions has a tremendous effect on our everyday's life.

Our organization has deep concern about Congressman Lungren's ability to serve effective in California by verse [sic] community as State Treasurer. His voting record clearly demonstrates the value and priorities has been to the best interests of the Asian American which I represent.

In California now, the Post said -- the survey said there's over ten percent of the population of California are Asian Americans, and 37 percent of united Asian American businesses are located in California. So in that thought, we have a very big stake in the State of California.

The Treasurer has a broad power of the purse to protect women, minorities, from discrimination from banking credit and buying houses, and he has control over billions of dollars in housing construction funds to benefit low-income, minority, and elderly.

Mr. Lungren's voting record shows that he is virtually opposing every piece of legislation that's suggested that goal, time table, and set aside for minority, women-owned businesses enterprises.

His record of civil rights and sanctions against South Africa, redress for the Japanese Americans, the ERA, Fair Housing, illustrate that his philosophy and attitude is directly contrast to the late Jesse Unruh, who was elected by the people of California.

It is known fact that Jesse Unruh has always concerned the right of underprivileged and under-represented portion of our population. I do not feel that a person with a voting record such as Congressman Lungren should be put in the position which has the authority to control and distribute billions of dollars, billions of dollars, and in the contrast to the state that have one of the most diverse populations in the nation. That's where we are so concerned of, because we have such a large population here, we want to have someone to have some compassionate [sic] for us in this area.

Why would California want to appoint a person with such insensitivity and voting record and serve as numerous broad commission? Especially I heard that he will represent Chair or represent in 44 or more commission. That is lot of power for person to exercise.

He'd be able to create and enforce public policy on the government standing on his own discretion. So, a person with that kind of power we have to put close scrutiny into it.

As Treasurer. a State Treasurer, Congressman Lungren would have the discretionary power that will require his judgment, his judgment, on spending authority. For example, as Treasurer would have the responsibility in issuing private activity bonds. Those bonds for schools, public housing, for hospitals, all those things. He would have a great impact on construction of homes, industrial parks, et cetera. With a few dollars available to support these projects, the Treasurer must be sensitive to the State needs in order to identify California's most important spending priorities.

Let us take a look at Congressman Lungren's priorities as a fiscal conservative. He voted to reduce legal service for the poor. Vote to cut back housing, health, welfare programs, education and transportation programs. And yet, yet, he voted to increase his own salary by 12,100 a year! How can you figure a person? When on hand he said that, on the other hand he said the other thing.

I don't mind voting myself some money. That's out of my personal selfish interest. But you are a public servant. You have to be consistent.

He voted for the Air Max Missile, aid to the Contras, and for each and every Defense appropriation bill. He even opposed legislation that would cut Defense spending by 10 billion. That's where the money -- you said balance the budget? Balance the budget on that area.

It appears that if Congressman Lungren's priority lies with the military expenditure rather than the programs which

benefit the welfare of Californians, it is this type of man we are to be responsible to determine spending priority of our State? I wonder.

Based on Congressman David [sic] Lungren's record in public office, we cannot in good conscience support this nomination.

I wish there was alternative. He's a fine man, a fine looking person. But Mr. Lungren has been out of step and out of phase with many civil rights achievements during the past two decades that was achieved, and insensitive to such programs concerning disadvantaged children, and needed base student loans which affect the minority and the ethnic population. The young mind and the youth of this country is the greatest asset we have and the hopes of our future. And to deprive this opportunity to reach the maximum potential would be a waste.

He voted women's issues on pay equity, which represented in HR 3008, the study of the federal workforce that determines if there's any discrimination based on sex and race.

Mr. Lungren also voted against the passage of the Equal Rights Amendment for the ladies over here. And he fought many other issues that we have talk about all afternoon that affect our rights, and privilege, and livelihood.

Mr. Lungren demonstrates a mock lack of regard and sensitivity to what the concerned people group in his decision, and we believe Mr. Lungren will continue to follow this type of manner.

Our national organization at the Grand Lodge Board meeting in December, 1987, passed a resolution to oppose this nomination of Congressman Daniel Lungren for the office of State Treasurer. We feel that a candidate for office must not only have the skill -- he's very skillful -- but must demonstrate equally the important characteristic of sensitivity, responsibility, compassion to all people in this great State of California.

In closing, we urge and recommend this honorable Committee to consider this deep set feeling and testimony, and to vote against this nomination. We as a citizen of California do not have the opportunity to vote on this issue. We only can pray and trust that you may act in behalf of us.

Thank you.

CHAIRMAN ROBERTI: Thank you very much, Mr. Lai.

Are there any questions?

Hearing none, and the next two witnesses not being here this afternoon, why don't we go to the health and family issues, and then the Congressman can make a general rebuttal.

CONGRESSMAN LUNGREN: If I could just make one short interjection here.

CHAIRMAN ROBERTI: Yes.

CONGRESSMAN LUNGREN: It is true I voted for an increase in salary for Members of Congress. I also have supported the tax exempt status for per diems for State Legislators, and maybe I should review both of those. I don't know if that was the import of that.

CHAIRMAN ROBERTI: No, Congressman.

CONGRESSMAN LUNGREN: Okay, I wondered what it was.

CHAIRMAN ROBERTI: We've voted on salary increases and have been criticized roundly for it.

CONGRESSMAN LUNGREN: If we were waiting, I could give you that appraisal language.

CHAIRMAN ROBERTI: Yes, please do.

CONGRESSMAN LUNGREN: The language was that the appraiser:

> "could use all relevant factors provided that such factors are not used by the appraisers to discriminate against any person for the purpose of denying rights guaranteed by this Title."

That was the precise language.

CHAIRMAN ROBERTI: We have been joined for the next section by Senator Diane Watson, who's the Chair of the Health and Human Services Committee.

If we could just reverse the order and start with Judy Hershberg, California Past President of the National Women's Political Caucus, she has a plane to catch. So, we'll be happy to accommodate her.

MS. HERSHBERG: Thank you.

My name is Judith Hershberg. I am immediate Past Chair of the National Women's Political Caucus, which is a multi-partisan organization that is interested in supporting the

election of women and the appointment of women to political office.

We also have some issues that we are very concerned about.

We are lucky to have access to the voting record of the Congressman, and I will speak for the AAUW, the American Association of University Women, as well as the National Women's Political Caucus nationally, gave the Congressman a zero rating on our issues.

Our Republican task force last month voted against recommending his appointment, and the State organization has come on record as being against the appointment of the Congressman to the Treasurer's post.

What we are concerned about is the power of his office and his investment of State funds. This would be a Treasurer with no fiscal policy experience who has opposed many programs for which he will have authority to issue, delay or cancel bond sales, including environmental issues, and low-cost housing, clean water, and so on.

The Treasurer chairs or casts a crucial vote for the authorities that target bond revenue dollars to hospitals, clinics, schools and businesses. His opposition to abortion and family planning, his record on education issues may determine where he votes to direct his money, and we are concerned about his direction.

His votes against the 1984 Civil Rights Act and the Equal Rights Amendment may have him take actions that will close

access to the California financial market to women in this state, and this market is, I guess, listed eighth in the world, and we are concerned about that.

And politically, we are aware that his appointment to the Treasurer's position puts him in the spotlight as a candidate for the Governor's Office. Even though it would open another seat in Congress for a woman to run for that office, we of the National Women's Political Caucus have come out against, and we would ask you not to vote for confirmation for him as the Treasurer of the State of California.

CHAIRMAN ROBERTI: Thank you, Ms. Hershberg.

Are there any questions? Senator Watson.

SENATOR WATSON: Not a question.

CHAIRMAN ROBERTI: Fine.

If there are no questions, then we thank you for your testimony and appreciate your presence.

The next witness is the Reverend Edward Peet, President of the Legislative Council for Older Californians from San Francisco.

Reverend Peet.

REV. PEET: Thank you very much.

We of the California Legislative Council entertain a very high opinion and thankfulness for the relationship we have to the Senate. I at one time was Chaplain of the Senate. That's 21 years ago, and I don't find any of the people around that were living at that time. I thought we could give them immortality with all the praying that was done, but it didn't work.

Any how, it's very good to be here. The California Legislative Council for Older Americans are the people who take the lead in bringing here to the Capital Park every May from 2500 to 3,000 seniors. I'm glad to say that I find a good many here on your Committee have spoken to us and have shared the opportunity and hospitality from the Legislature by which we are granted a good many privileges to come up here in the latter part of May for this rally.

A lot has been said about the new duties that would fall to Congressman Lungren if he were to become Treasurer. I'm sure that numerous duties that he would have and the scope of them have to do with elderly, has to do with retirees. I understand teachers, State employees would be affected by decisions that he would make.

We of the Legislative Council, which are a unit of the California National Council of Senior Citizens in Washington, D.C., are prompted to oppose the appointment of the Nominee. We go by the scorecard which is sent out every year by the National Council of Senior Citizens since 1961, when the National Council of Senior Citizens came into being for the purpose of developing sentiment on behalf of Medicare. Indeed, the then President, Lyndon Johnson, said that there would be no Medicare if it hadn't been for the National Council of Senior Citizens. It has about 4800 clubs, of which there are numerous clubs in California. It has maybe 4½ million activists around the country who, acting in their own community, by the statements that come from the National Council, are seeking to improve the lot of the people who are in the latter years of life, trying to make a go of it.

I'm proud to say that I've been on the Board of the National Council for the last 17 years, and the annual scorecard, which they produce on the voting records of Members of Congress, go to many places. They are relied upon by the AARP, which has 26 million members. The scorecard of the National Council is a guide for the Older Women's League, for the National Council on Aging, and a good many others that have to do with the welfare of the aged.

I regret to say that I'm sure while the candidate's a very estimable gentleman, I've been impressed today by his intelligence, by his logic, nevertheless, we have to say from our perusal of the scorecard, distributed annually by the National Council, that in ten years of his being in the Congress, the Nominee has voted only three times out of 80 for the position of the National Council; 77 times he has been on the other side.

I think the National Council is probably like Avis; it's Number Two. They try harder, but we're not as large as the AARP, but we're very important outfit in the business.

In 1984, there was HR 5712, which provided $305 millions for the Legal Services Corporation, an increase of $30 millions for the work of that organization which has to do with the -- they provide legal services for the poor and for the elderly. Twenty-eight of the 45 Congressmen from the State of California, 28 of them voted for the Legal Services Corporation, but Mr. Dan Lungren was not in the 28; he voted no.

There is another occasion, HR 2807, which authorized increased funds for senior meals under the Older Americans Act,

which did prevail, and 385 Congress people voted yes for the meals under that Act, but 31 people voted no, and Mr. Lungren was one of 31 against 386.

CHAIRMAN ROBERTI: Which meals program was this?

REV. PEET: That was -- I think it was either the hot meals or the home delivered meals; I'm not sure. Has to do with meals under the Older Americans Act.

In 1981, there was HR 181, which eliminated the previously important support that people had under Social Security, but in 1981 the minimum benefits that were available for the poorest were taken away. Mr. Lungren did not vote to support. He voted to remove the minimum benefit that was available prior to that.

In 1987, there was a Catastrophic Health Insurance bill. A great majority of Congress people have voted for that. I understand that there's a House version now around and there's a Senate version around, but not Mr. Lungren.

So, ladies and gentlemen, the cumulative score of the Nominee on issues important to seniors is 3 percent through the years. Some Congressmen have 10 percent of conformity to the National Council's standards; some have 100 percent. But we find that this is a very low score, and the position of the California Legislative Council for Older Americans is to oppose the confirmation of Mr. Lungren.

CHAIRMAN ROBERTI: Thank you very much, Reverend. We appreciate your testimony.

Is anybody here to ask questions?

Hearing none, thank you very much.

The next witness is Mr. Bill Melamed, Member of the Board of Governors of the Municipal Elections Committee of Los Angeles. Not present.

Next is Ms. Kate Sproul, Legislative Advocate of the California National Organization for Women.

MS. SPROUL: Good afternoon. My name is Kate Sproul, and I represent the California National Organization for Women.

The 25,000 members of the California National Organization for Women oppose the appointment of Congress Member Dan Lungren to the position of State Treasurer. We oppose his appointment because his Congressional voting record depicts a man who is hostile to women's issues. He has voted against the Equal Rights Amendment. He has voted against Pay Equity. He has consistently voted against abortion, and he has consistently voted against family planning.

We believe his personal beliefs will inevitably spill over into the decisions he would render as State Treasurer.

The Treasurer's position is not simply ministerial. It wields considerable discretionary power and influence. For instance, the Treasurer has the discretionary authority to decide whether the State might invest monies in a minority or women-owned business.

It's naive to think that his personal beliefs won't play a critical role in the decisions he makes. For these reasons, we oppose his appointment to the position of State Treasurer.

Thank you.

CHAIRMAN ROBERTI: Thank you, Ms. Sproul.

Any questions? Senator Ellis.

SENATOR ELLIS: You have 25,000 members statewide?

MS. SPROUL: Yes, sir.

SENATOR ELLIS: And all 25,000 oppose him?

MS. SPROUL: No. The vote was taken by the Board of Directors.

SENATOR ELLIS: All right, but you said that 25,000 members opposed him.

I know many, many members of your organization who support him.

MS. SPROUL: Well, then I stand corrected. Technically it was the Board of Directors.

CHAIRMAN ROBERTI: Any other questions?

Thank you, Ms. Sproul.

MS. SPROUL: Thank you.

CHAIRMAN ROBERTI: Senator Watson.

SENATOR WATSON: I believe I can open up with my statement now.

CHAIRMAN ROBERTI: You want to make a statement and then ask some questions?

SENATOR WATSON: Yes.

Hello, Congressman Lungren.

You know that the two of us have not talked. We've not met before. And I have researched your record, because when I heard about the appointment I was quite concerned. And so, I looked at the record to be able to get some idea about the kind of person that was being nominated.

We have not talked, so the only thing I have to go on is a pattern that has been established through what I discern as your voting record.

I Chair Health and Human Services, and I am very concerned about the billions of dollars that are controlled by the State Treasurer and where that State Treasurer seems to fit, that person that has been nominated: what he has done in the past, the bills that he's authored, the bills that he has voted on, the amendments that he has submitted.

In looking at your record only, I am very troubled by a pattern that I see established. You sit on over -- you would sit on over 40 boards, authorities, councils. The State Treasurer is chairperson of almost all of them. Some of them are three-member committees; some of them have as many as nine. And on many of them, the State Treasurer is the swing vote.

I want to probe some of these areas with you, and I'd like to give you an opportunity to respond rather than waiting to the end.

As chair of 39 State boards and commissions and a vast number of these commissions, you would be the swing vote. You would have a vast influence on a variety of issues of critical concern to Californians.

California will probably, in the 1990s and beyond, be a Third World State; meaning that the majority of people here will be minorities, not English-speaking, but poor, uneducated, and without health care. Many of them will be immigrants. And I am concerned that the policies that can be affected by the State

Treasurer take into consideration these particular areas of concern.

I look at your voting record in the area of health and human services, and I see that you're rated zero by the American Association of University Women; that was for the 1985-86 year. I see that you have a zero rating by the National Women's Political Caucus for 1985-86. That the Child Welfare League of America voted you zero, and the Children's Defense Fund in '86 also voted you zero.

Can you respond to those votes or lack of votes?

CONGRESSMAN LUNGREN: No. If you gave me the specific votes that we're talking about, I'd be happy to respond, Senator.

SENATOR WATSON: All right.

CONGRESSMAN LUNGREN: I imagine a number of them dealt with budget matters, and I have been a consistent voter against any number of appropriation bills in the House of Representatives because I happen to believe that it is important for us to finally deal with budget deficits. And that we cannot seriously discharge our duties as long as we think we can play the game of infinite budget deficit.

Sometimes that means I'm there with just a few votes, but it seems to me you've got to send a message. In other cases, generally speaking, where amendments have been denied which would have brought particular programs down to either the Democratic Congressional budget or the President's budget, I have voted against the program, because frankly it seems to me if you continually just vote down every single amendment that tries to

bring spending within some sort of limit, and then merrily go on your way and vote for the programs anyway, you're never serious about it.

So, I have done that. I would imagine that happens to be the case in a number of those circumstances.

I've also voted against programs which I thought were redundant. Until we seriously look at programs are of the mind that if we're going to start a new program, perhaps we should look to see if some already existing program isn't working, and see if we can eliminate that. Or, if there's a program that shows some promise, build on that, rather than start another program. I've done that across the board in all sorts of bills over the years.

SENATOR WATSON: I've listened to your responses for the better part of the day. I find you to be very articulate, very bright, and you have a gift with words.

But what I don't see is where your commitment is in terms of your vote. Now, you talk about the fiscal considerations, and certainly we as responsible Legislators have to consider the fiscal impact.

I don't see much about your humanity. You started out telling us about your father, your mother, and you as a family person. And I would commend you for your family spirit. I would hope that most American families could be like yours.

But when it comes down to the only measurement I have of the man or the woman, I have to look at your votes.

I want to know why you voted against the Child Nutrition Act, HR 7? It would authorize major child nutrition programs, including WIC, school lunches, and the summer school food program for children. It passed overwhelmingly. It was just a few people, I guess, casting a tough vote.

I've heard you say over and over again, "We must take tough positions because someone has to do it."

CONGRESSMAN LUNGREN: Right.

SENATOR WATSON: Well, that is true. And I'm wondering if every position that you're going to take as you sit on those authorities will be tough positions? Are we going to see to many children, and too many of their mothers, and too many of the poor, and too many of the handicapped lose out because you're taking the tough position?

You voted against a Children's Services bill, HR 3424. Who loses there? Children do. These are the programs, including foster care, adoption assistance, and Child Protective Services. You take the tough vote. Who loses? The children.

Housing was mentioned. Head Start, you did not vote on the conference report of a bill that would re-authorize Head Start, one of the finest programs ever. These are the programs that give disadvantaged children something to go on when they get into school. You voted against it.

You voted against key issues for women, tax equity, higher education. Somewhere along the line, I would think your humanity, as you have tried to explain it to us, would come in. I don't see it yet.

CONGRESSMAN LUNGREN: Well, Senator, I would just say this. I doubt that you would say that some of my colleagues in the House of Representatives are against Defense spending when they have consistently voted against the Defense bill because they found things wrong with it. That's a charge that's been leveled at some that I think is unfair. They may feel that there's excessive spending for particular programs that are unnecessary. We may judge them to be in error, but I don't think it is a proper thing for someone to say, "Who suffers? The American people suffer because they have voted to cut the Defense of the nation out."

Secondly, I would say this --

SENATOR WATSON: I don't think that I've seen any vote pass both Houses that has entirely cut the Defense of the nation out.

But I'd like to get on my topic.

CONGRESSMAN LUNGREN: Well, if I can just say to you, people who have voted against the Defense budget --

SENATOR WATSON: No, I'd like to get on the topic --

CONGRESSMAN LUNGREN: You're talking to me about voting against particular programs and assuming --

SENATOR WATSON: No, I would like to --

CONGRESSMAN LUNGREN: -- that I'm against --

SENATOR WATSON: -- get you to stick on the topic areas, because our time is getting very short.

If you could respond to what your no votes mean, and I'm just quoting from you. You said --

CONGRESSMAN LUNGREN: Well I'm just telling you what my no votes mean.

I think that I've examined every program to see whether in fact the funding levels are consistent with the budget that we're trying to achieve, whether program increases are taking place that we can accept, or whether new programs are being established sometimes with very good sounding names, but frankly are duplicative or things that we cannot afford.

And I have attempted to try and support programs along the line, but many times I have just voted against it.

I don't know, frankly, I don't know what the long-range answer to our nation's health problems are from a fiscal standpoint. I entertain things now, both for specific programs and for general programs, Medicare and everything else, that I never would have entertained ten years ago.

SENATOR WATSON: Let me just --

CONGRESSMAN LUNGREN: Because I see challenges that we have now that we didn't have, and I don't know, frankly, how we're going to answer all those. I'm open to suggestions; I'm open --

SENATOR WATSON: Let me just throw another one out and then you can respond to that.

You have said several times to me that you vote against those programs that duplicate other programs. But you voted against a program that comes under the Child Nutrition and School Lunches, and you support an amendment in 1985 to eliminate cost-of-living adjustments to child food programs.

CONGRESSMAN LUNGREN: If I recall that specific one, that dealt with a one-year freeze that we were attempting to place on all programs. It was part of an overall -- was that 1985?

SENATOR WATSON: It was 1985.

CONGRESSMAN LUNGREN: 1985, that was, I believe, the Bartlett amendment to the HR 7. And the effort there was to try and have a one-year freeze on all programs.

I have for a long period of time said that it is unfair, for instance, to single out federal retirees and say they're going to get a hit and nobody else is. And what I have said publicly to my constituents is, if I feel there is a real effort to try and scale back federal spending at least as equitably as possible, I will support it. If that's not the case, I won't support it.

So, this was an effort in 1985, as I recall, to freeze that particular program for a single year. The previous year I had supported a substitute that eliminated new add-ons to that program but funded the existing programs with an inflation factor. So I have tried to fit what I felt was a fiscal necessity to the greatest possible benefit of those to be served by the programs.

Those were both Bartlett amendments; Steve Bartlett, a Congressman from Texas, both in '84 and '85.

SENATOR WATSON: I guess that further supports the pattern that I've been able to identify, that your first concern is a fiscal concern; is that correct?

CONGRESSMAN LUNGREN: No, it is a major concern, but it's not my only concern.

SENATOR WATSON: Let me restate that.

CONGRESSMAN LUNGREN: Let me restate my answer, if I may.

SENATOR WATSON: Let me restate the question, and then you can restate the answer.

CONGRESSMAN LUNGREN: All right.

SENATOR WATSON: Your first concern is a fiscal concern. That has been your response to the questions that I've raised with you.

Am I correct?

CONGRESSMAN LUNGREN: Let me put it in this context.

When you are not on the committee of jurisdiction, and you do not have the ability to reform the program, or to work with the program, or to extend the program in ways you see fit, sometimes you are limited to only voting on the fiscal implications of the program as they're before you. That is true, and so in those cases, that's basically what I would be given an opportunity to do.

SENATOR WATSON: How many bills have you authored and passed in your, what, ten years in the Congress?

CONGRESSMAN LUNGREN: I don't know. It's probably -- authored or co-sponsored?

SENATOR WATSON: Authored and had signed into law.

CONGRESSMAN LUNGREN: Oh, if you're actually talking about ones that I authored and were signed into law, since I'm a

Republican in the House of Representatives, a very limited probably one or two.

If you're talking about bills that I was responsible for in large measure, we're talking a lot more than that.

SENATOR WATSON: How many bills have you authored?

CONGRESSMAN LUNGREN: We have a very different standard of authoring.

SENATOR WATSON: Oh, I don't know how to express it any other --

CONGRESSMAN LUNGREN: Let me put it this way. In the House of Representatives, if you want to get a bill passed and you're a Republican, you get an idea. You have the other side take it, put their name on it, and the bill passes.

In terms of bills that you get with your name on them, you are limited basically to commemoratives, or you're limited to something of that nature. I've probably had two, or three, or four commemoratives passed.

If you're talking about bills that I have a major responsibility for, I would say chief of those is the Comprehensive Crime Control Act of 1984 and a whole host of other things.

SENATOR WATSON: Well, what I'm trying to do, you have painted a picture of someone who's very fiscally conservative. As various people have raised questions about your voting pattern, you talk about how you look at a bill, you analyze it, and you come up with amendments.

And I'm wondering how much have you done on your own? How much have you introduced on your own?

I am looking for something from you that would give me some comfort in thinking that, indeed, you could preside over the position of Treasurer impartially, humanely, as well as being fiscally responsible.

So, all of these various votes that you have been negative on, or legislation that you have voted against because you didn't think it was put together properly, what have you done to present a better conceived approached to the problem?

CONGRESSMAN LUNGREN: Well, if you want to give me -- if you want me to give you at least one current example on the Catastrophic Health bill that I keep getting criticized for because I did not support, I worked as part of the Republican task force to come up with what we thought would be an appropriate response to the President's call for a Catastrophic Health bill. We came up with that. I was one of the authors, if you will, because it was a consensus or a group product.

We were limited on the Floor of the House as to exactly what we could offer. We were allowed to offer one thing and not several amendments to it.

I attempted to offer a specific amendment which I felt was in the best interests of senior citizens, and particularly senior citizens in my district, and particularly senior citizens who happened to be federal employees and State employees. And that was to make optional coverage on the Catastrophic Health bill, because a large number of people -- federal retirees being

one, or retirees under certain major union programs -- already had all or most of the benefits to be provided by the Catastrophic Health bill passed by the House of Representatives. But, they would be taxed even though they would get no increased benefit.

We felt that it was more important to attempt to allow the people to make the judgments on their own as to whether they wanted to be in it or whether the didn't want to be in it. And in fact, as a direct response to the effort of my amendment, my amendment and the gentleman from Virginia, Mr. Slaughter's amendment, the Federal Retired Employees Organization took a national position against the Catastrophic Health bill and in fact supported our amendment.

So, there is a specific example in which I attempted to make better a bill that was going through and for which I gained the support of a major organization of federal retirees.

SENATOR WATSON: So what you're saying with that response is that you have worked with others to try to bring about a piece of legislation that would deal with retirees the way you think they should be dealt with.

CONGRESSMAN LUNGREN: To try and meet the tremendous problem that's going to get even greater in this country, which is how do you deal with the long-term health care needs of the senior citizens --

SENATOR WATSON: Right.

CONGRESSMAN LUNGREN: -- when the senior citizen population gets to be a greater percentage, and as the senior

citizens grow to an older period of time, and as the problems which beset them physically accelerate in those later years, we are going to have to reach some very serious matters in a way that takes care of their problems, but in a way that does not bankrupt this country around the turn of the century.

And one of the things that I have tried to convey to my colleagues is, we ought to start thinking about that now, not at the turn of the century, and not in the year 2020.

SENATOR WATSON: You're correct, and I'm going to defer to one of the Committee Members to pursue the senior citizen issue. I'd like to get back to some of my issues here.

CONGRESSMAN LUNGREN: All right.

SENATOR WATSON: As Treasurer, you would be a member of the Advisory Committee for the Displaced Homemaker Emergency Loan Program.

Now, you received a rating of zero percent for your record of nonsupport of women's and children's issues by the different organizations that I mentioned.

What would you do in a matter such as that if you were sitting on that particular committee?

CONGRESSMAN LUNGREN: Well, I suppose I would do what I would do on any other committee. I would try and find out exactly the mandate of the State Legislature as passed into law, and I try and carry out the law to the best of my ability with enthusiasm and follow the spirit as well as the letter of the law.

I would not attempt to use my own personal position to try and go against what the law has set out.

If asked, I might come back to the Legislature on some point and give you the benefit of my opinion, but in terms of operating within the constructs of the statute that established that commission, I would do the best job I possibly could.

SENATOR WATSON: I have heard you mention that you would analyze and do the best job. I've heard you say that several times today.

CONGRESSMAN LUNGREN: I mean it. That's why I say it.

SENATOR WATSON: Well, I'm having a real hard time with what you say here and what your pattern has been.

Are you saying to us that in 1988, your pattern now will change from such a negative view of social programs to one that will take into consideration the needs of the people of California?

CONGRESSMAN LUNGREN: I don't believe that I've had a negative view of social programs.

I have had a negative view of all programs that have put us in a somewhat of a fiscal mess in Washington, D.C. I have taken a negative view of the federal government attempting to dominate in certain areas of domestic policy where, in fact, I think the States and the local governments are in a far better position to act.

I do not suggest that certain functions of the government that ought properly to be on the State level ought not to be supported because I've felt that we've overextended on the

federal level. I have a perfect reason to believe that we have to be involved in a much more intensive way on the State level than we do on the federal level with some of these domestic programs.

I just happen to think that rather than just mouthing the words that I support the principle of subsidiarity, that I actually act in concert with that, and I happen to think that's extremely important.

SENATOR WATSON: Congressman Lungren, many of the programs that you vote against are programs that would give some funding to the States, but these are programs that would be sorely reduced if we did not receive money from the federal government.

Let me just give you an example of some of them that I'm very, very concerned about. You voted no to the passage of a bill that would appropriate billions of dollars for the Department of Health, Labor, and Education and Welfare, and related agencies. You voted no --

CONGRESSMAN LUNGREN: That's a general appropriation bill; right?

SENATOR WATSON: That's a general appropriation bill.

CONGRESSMAN LUNGREN: Absolutely.

SENATOR WATSON: Yes, that's what I'm saying. You see the pattern? These are bills that would give money to the State because the State itself cannot afford the programs as State-only programs, and you have voted no.

CONGRESSMAN LUNGREN: That's the total appropriation bill for the entire Department, and I happen to think --

SENATOR WATSON: I know, absolutely. I'm more aware of it than you think.

CONGRESSMAN LUNGREN: No, I'm not saying that.

But the answer is that that's the entire program in those area.

SENATOR WATSON: Absolutely.

CONGRESSMAN LUNGREN: And I happen to think we're overspending in those areas as in many other areas --

SENATOR WATSON: That's exactly --

CONGRESSMAN LUNGREN: -- with respect to the budget that we have.

SENATOR WATSON: -- the point. That's exactly the point I'm trying to focus on.

CONGRESSMAN LUNGREN: Fine. I don't support a $200 billion deficit. Maybe you do.

SENATOR WATSON: Well, I'm looking at you and trying to discern how well you're going to be able to carry out the mandate of the office of California's State Treasurer. And I would like you to address your responses to just that, if you would.

You voted no for a $45 million federal health information program. Also it appropriated money for physical fitness programs and mental health programs.

You voted no for a program that would revise the Health Planning and Resources Development Act of 1974, and it would have allocated monies for planning activities and resource development.

You voted no against an appropriation for Health Planning and Resource Development grants.

You voted yes to prevent any funds appropriated by the bill, this is HR 7593, to pay for abortions or the administration of expenses of any plan under the Federal Employees Health Benefits Program.

I know your position on abortion, but the law says that women have that right. And I'm just wondering, with your philosophical position, could you support what the law has already mandated?

CONGRESSMAN LUNGREN: Well, I've already answered that question numerous occasions saying that I would not -- I cannot, by the law, allow my strong feeling on abortion, as much as I would like to, affect my decision with respect to the job that I have. So I can't; so I won't.

You're asking me am I going to give up my strongly held viewpoint. No, I'm not, any more than the Chairman is going to give up --

SENATOR WATSON: I did not ask that question. I would not expect you.

But you do have a wide bit of discretion on these committees, and I just want to know where you're going to be when it comes down to you as one of three votes.

CONGRESSMAN LUNGREN: I believe that my discretion is curtailed substantially with respect to that. I believe any court in California would say that it was outside the responsibility and discretion of my office to deny bonding, a

bond issue, to a health facility based on the fact that they perform abortions.

I believe that happens to be the case.

SENATOR WATSON: I can only --

CONGRESSMAN LUNGREN: Are you informing me that that's otherwise?

SENATOR WATSON: I can only go on your deeds, not on your promises.

CONGRESSMAN LUNGREN: I don't know what that means.

All I can say --

SENATOR WATSON: What it means is --

CONGRESSMAN LUNGREN: -- is my strongly held viewpoints with respect to abortion, if that's the point you want to make, the point is made.

I'm pro-life. I have been pro-life. I'll continue to be pro-life.

SENATOR WATSON: That is not the point.

CONGRESSMAN LUNGREN: I support the law of the United States which is, on the federal level by the way, that federal tax dollars will not be used for the performance of abortions. That's very much within the law that's within the mainstream. I have followed that law.

It may not be the law with respect to bonding in California; therefore, it's outside of what I would be able to do.

SENATOR WATSON: I think you've indicated what your position would be.

You voted no on a bill to extend and expand community mental health services programs, State mental health programs, and mental health prevention programs.

You also voted no on a bill that would revise the community mental health center system that would establish a series of new grant programs designed to extend State mental health services, and the also the bill would have authorized money for a particular fiscal year.

I'm very troubled by your votes on mental health because one of the most tremendous problems we're facing here in the State of California is the mentally ill in our homeless population. And when President Reagan was Governor of the State of California, he closed down many of the State institutions with the promise to develop community-based programs. They have not occurred, and so we have had a homeless population out there, 30 percent are mentally ill.

And the record, your deed in this area, was one to vote against those kinds of programs. That's the only thing I can go on, is what you've already done.

Would you like to respond?

CONGRESSMAN LUNGREN: Once again, I can only say that it seems to me in certain circumstances that the State government is in a better position to handle a number of these issues than is the federal government.

And that the fact that the local and State officials oftentimes come to Washington and say to us, "Would you please fund the program?" I had one of the mayors in my district come

and talk about a specific program, and I said, "Look, we've got a deficit. You folks don't have a deficit at all. Why are you asking me to do it?"

He said, "Because the folks back home don't want to tax themselves to support the program."

And I said to him, very honestly, "The folks back home are the same folks that elected me, and we've got to have the courage, is that's what it takes, to tell them that these programs are necessary and they've got to be paid for."

But in fact, you can't keep coming to the federal government when we have this enormous deficit.

SENATOR WATSON: Well, you're going to be sitting in a position to have a wide amount of authority over the funds in this State of California. You're going to be sitting on the Health Facilities Financing Authority if confirmed by the California State Legislature.

This is an authority that has developed a reputation of helping those who came in front of the group. Often they helped large facilities as well as small facilities. That was because of a commitment of Jesse Unruh.

I would like to know what your position would be, and if confirmed, under what, if any, conditions would you seek to change the trend that has been set into place? And I guess the trend was, if there was financing needed, we would then give the necessary dollars.

CONGRESSMAN LUNGREN: Within whatever constraints I have in terms of outside numbers, that is, if we have an allocation

question, but within any constraints that are established, I will follow through on that.

I mean, I happen to believe that we have continuing extraordinary needs in the area of health in California as well as the nation. Some of those needs are going to be far different than what we've had in the past, in the area of AIDS, for instance.

But the AIDS challenge is only superimposed over the massive challenge we're going to have as a country and we're going to have as a State to find ways to effectively treat the senior citizens of our community. I mean, I don't think we as a nation are looking at that.

When you look at the fact that by the year 2040, I believe it is, most of us won't be around but still, that shows you a trend, something like one in 10 people who are 65 and over will have at least one living parent 85 or more, the dimensions of the challenge are far greater than anything we've seen.

When you see that the Baby Boom generation, of which I'm a part, is going to be the aging generation after -- sometime after the turn of the century, and that we in a sense have not produced offspring to make up for the numbers that we have, you're going to see an enormous challenge to this society. How do we pay, not only for the medical needs, but for the retirement needs of our senior citizens with a far smaller population base of people who are working?

I don't have all the answers there. I do know that that's a challenge that we've got to start looking at, and

looking at sooner rather than later. That's going to take some infrastructure in the area of health care; there's no doubt about it. I'd rather anticipate those needs than try and catch up with those needs.

That's only a very -- that's only a part of an extremely intriguing problem that men and women in the State Legislature and in Executive Branch positions are going to have to identify and to deal with.

One of the votes I've been criticized for was, I happened to support an increase in the retirement age from 65 to 67. It was a Democratic Member's proposal. What people failed to mention is that that would have started in the year 2000. It would have gradually brought it up, and one of the reasons for it is that if you look demographically at both the cost of Medicare and the cost of Social Security, we cannot project out how we're going to pay for those programs if people continue to retire at 65. So we were trying to give the signal to people in my generation, "You're going to have to retire later rather the time your parents are retiring precisely so we can take care of the problem."

That's not a simple thing to say or an easy thing to say. People don't like to hear it, but that's the kind of thing we're going to have to do.

SENATOR WATSON: Okay, again, I'm going to defer on the senior citizens issues because I really have some very important issues I'm trying to get to.

CONGRESSMAN LUNGREN: All right.

SENATOR WATSON: You mentioned AIDS.

CONGRESSMAN LUNGREN: Yes.

SENATOR WATSON: And several hours back you said that we have to do something about AIDS.

CONGRESSMAN LUNGREN: That's right.

SENATOR WATSON: Your record shows that in 1986, you voted against Education, Labor, Health and Human Services appropriations bill for increased funding for AIDS research, and in 1987, you voted against the creation of a national commission on AIDS.

CONGRESSMAN LUNGREN: Right.

SENATOR WATSON: Now, I know that probably is not going to do much of anything but have good dialogue, but the two areas where you've addressed AIDS, you voted against. And I don't see in your record --

CONGRESSMAN LUNGREN: I'll address those if you'd like me to.

SENATOR WATSON: -- you know, what you've done. I don't see you being proactive.

CONGRESSMAN LUNGREN: Specifically, the first vote that you talked about in terms of increase in research monies.

The information was, at that time we were attempting to figure out on the Congressional level what the appropriate level of funding was. Not only was it something we'd been concerned about in terms of the Congress, but it was also something that was very evident in the press. I mean, it was a big issue that was confronting us.

And there was an effort to increase the research into AIDS beyond what we were told by NIH and the other affiliated organizations they could use that year. And so, I made a decision based on their best judgment that they had the funding that the could use that year in terms of research.

I do -- if we had been told that NIH could have used those funds, could have used them in a way that they felt was effective in that year, I would have supported it.

The second question deals with the commission. That vote came up a week after the President had established his commission and before there was any problem with that commission. And the question in my mind was: why create a competing Congressionally chartered commission when the President's already created a commission?

It was more important as far as I was concerned to try and get the politics out of the AIDS question. It was more important to get the battles behind us and to develop a consensus as to what the approach should be for the assault on the AIDS disease, both from the standpoint of trying to stop its further spread to the extend we could, and also treating those people who had already contracted AIDS.

So I voted against a commission that came on the heels of a Presidential commission, within a week I believe that vote was, long before there was any trouble on the next commission.

It would have been easier, frankly, to vote for the commission so that people could say I voted for doing something about AIDS, and I wouldn't have a question asked me, "Why would you vote against a commission for AIDS?"

I just think it was -- it was in a sense political, but it didn't make good public policy. It wasn't going to get us any closer to solving our problems, was my major concern.

SENATOR WATSON: All right.

There is a tremendous need for subacute care for AIDS victims here in the State of California. And the Health Facilities Financing Authority is the ideal place to find a solution for the need for these facilities.

What are your ideas? In what ways would you meet this need for new facilities?

CONGRESSMAN LUNGREN: Well, without getting into specific detail, I would say that the Health Facilities Financing Authority does have a key role to play; that you're not going to be able to do it entirely with specifically county or State hospitals. We're going to have to try and also include the private sector, and that means private activity bonds made available through that particular Authority are going to be particularly important.

If you'd asked me what criteria I would establish; if you'd asked me what size I'd look at and what level, I don't know at this point. I just am very open to the fact that that particular Authority can play a key role in trying to create some of the infrastructure, health infrastructure, necessary to deal with that particular problem. No doubt about it.

SENATOR WATSON: Let me ask you, since we're talking about AIDS, do you support mandatory testing?

CONGRESSMAN LUNGREN: In some circumstances, yes.

SENATOR WATSON: What are those circumstances?

CONGRESSMAN LUNGREN: I happen to believe that it makes sense with respect to people who are in hospitals and with respect, for instance, to those who get marriage licenses. I guess those would be my two general areas.

SENATOR WATSON: Do you support testing those going into lockup facilities?

CONGRESSMAN LUNGREN: Lockup facilities?

SENATOR WATSON: Prisons, jails.

CONGRESSMAN LUNGREN: As a matter of fact, I would. I think that would make good sense in terms of protecting other prisoners and also the treatment --

SENATOR WATSON: In terms of protecting other prisoners?

CONGRESSMAN LUNGREN: Yes, ma'am.

SENATOR WATSON: What do you mean by that?

CONGRESSMAN LUNGREN: Well, I think because of the instance of certain sexual attacks in prisons, I wouldn't want to condemn someone who has been charged with a particular offense to also being exposed to the AIDS virus as well.

So it seems to me from two standpoints: exposing new people to the AIDS virus as well as treating those that we know have it while in the facility.

SENATOR WATSON: What would you do with those who have tested positive?

CONGRESSMAN LUNGREN: I'm not sure what I would do with it.

SENATOR WATSON: You said you want to test them.

CONGRESSMAN LUNGREN: I think so, and then come up with a program.

In terms of those who test positive, I think one of the things you would do is attempt to have some sort of a medical program.

SENATOR WATSON: All right, you'd have a medical program. What else would you do?

CONGRESSMAN LUNGREN: I don't know what else I'd do at this point. I really haven't thought about it.

SENATOR WATSON: Would isolate them, quarantine them?

CONGRESSMAN LUNGREN: I don't think I'd use the word "quarantine."

SENATOR WATSON: Isolate? Separate?

CONGRESSMAN LUNGREN: I don't know. You know, I haven't really dealt with that. I don't know whether we should have some correction facilities that deal with those who are AIDS carriers or not. I just really haven't thought that out.

SENATOR WATSON: Well, that probably will be an issue that the Treasurer will have to deal with because right now, the proposals that are in front of us to do testing also will probably lead to isolating or separating them from the regular prison population. That means new facilities.

You mentioned health care. That means new programs --

CONGRESSMAN LUNGREN: Costs money.

SENATOR WATSON: -- or improved programs and new facilities. And indeed, they do cost money.

CONGRESSMAN LUNGREN: Yes, sure.

SENATOR WATSON: In 1987, you voted to require mandatory AIDS testing of all homeless individuals receiving medical care.

Do you want to comment on that?

CONGRESSMAN LUNGREN: Well, I happen to feel that those who are in the medical profession have a right to protect themselves from undue exposure to AIDS. Not that they should refuse treatment, but they should be aware of people they treat who may be AIDS carriers so that they might take proper precautions.

Also there is the problem in a number of our homeless situations of violence perpetrated by one homeless individual upon another while they're staying at certain facilities. If one was exposed to that, I think it would be better that they know that sooner rather than later.

So, I think for a number of reasons it made some sense.

SENATOR WATSON: Why are you targeting the homeless group and not other groups?

CONGRESSMAN LUNGREN: Well, I said to you that I thought that people who --

SENATOR WATSON: Do you know who the homeless are?

CONGRESSMAN LUNGREN: -- work in hospitals --

SENATOR WATSON: Do you know who the homeless are?

CONGRESSMAN LUNGREN: Yes, I do. I'm trying to answer your question.

I think that those people who do go to hospitals and receive care from health professionals could be tested so that those health professionals, again, know who may expose them to

the AIDS virus. Not, again, to refuse treatment to them, but so they might know so they might take proper precautions against the spread of AIDS.

SENATOR WATSON: Well, I would understand your referring to high risk homeless people and not all homeless people.

CONGRESSMAN LUNGREN: Well, I wasn't speaking about high risk patients, either, but I try to give you my best answer.

SENATOR WATSON: Well, I'm looking at the vote that you made.

CONGRESSMAN LUNGREN: Uh-huh.

SENATOR WATSON: The various boards that you will sit on will be handling financing for major public projects. Those projects that you decide that you would disagree with, you could simply use the excuse that market conditions are bad. And you could simply not schedule the issue; you could simply not put the issue on the agenda.

I want to know, after looking at your voting record, just across the board in all the areas that I care about, what you can tell me that will convince me that your pattern of behavior in the past will be any different when we ask you to go out and peddle some bonds to build new mental health institutions, new hospitals for AIDS patients, maybe new correctional health care centers, maybe new family planning centers where the advise on abortion, and down the line?

What can you tell me that will convince me that you will go out and you will see that the bonds are really supported and sold with the lowest interest possible? That you will put these

issues on the agenda? That you will hold the meetings where these issues come up?

CONGRESSMAN LUNGREN: Well, with all due respect, Senator, I take exception to your comment about my convincing you that I'm going to change my pattern of behavior. That suggests in some way I'm less than up-front, or do something less than following the law or the spirit of the law.

If you can find that in my record, I'd like to know about it. No one has ever suggested that to me.

If you're saying what can I do to convince you that I'll follow the law, the spirit of the law, et cetera, I say look at my record. There's no suggestion I have ever not done that. There's no suggestion I have ever refused to follow the law or refused to discharge my duties as best they can.

I've dealt with some difficult issues while I've been in the Congress, at times having to swallow very hard in terms of immigration law and getting a final product through.

I'd say you'd have to take a look at my record.

SENATOR WATSON: I'm looking at it right now.

You voted against the Equal Right Amendment. You voted against Pay Equity; that was HR 3008. You voted against the final passage of the Pay Equity study to determine -- it was just a study -- to determine whether differences in pay and classification have arisen because of discrimination based on sex, race or national origin.

CONGRESSMAN LUNGREN: I'll be happy to answer that.

SENATOR WATSON: You voted against the reorganization of Title 10 to extend aid for family planning services through fiscal year '88. You voted against the Welfare Reform Act of 1979. You voted, as I mentioned before, against Child Nutrition. You voted to cut funding and limited authorization for Child Nutrition programs.

You voted against -- you voted for, in 1981,to cut spending for social programs for Labor, for Health and Human Services, for Education. You voted in 1986 to prevent new aid for protection in advocacy programs for the mentally ill. You voted in 1987 against re-establishing the Select Committee on Hunger. You voted in 1987 against the final passage of HR 558, the Homeless Assistance Act. You voted in 1982 against increasing Medicare outlays, to restore funding cuts. And it just goes on and on and on.

CONGRESSMAN LUNGREN: Yes, Senator. If you'd like me to respond to those, I'd be happy to.

In the first place, the Pay Equity study was more than that. A Washington State court had decided that because a pay equity study had been done by the State of Washington, the State of Washington could therefore be sued in the tune of hundreds of millions of dollars pursuant to the study because they said the study, therefore, justified a showing or a finding that discrimination took place by the State.

The question was, if we created that on the federal level, would we have therefore been submitted the federal government to a massive number of lawsuits based on some study, the validity of which we may have some question about.

You talk about the Equal Rights Amendment. The Equal Rights Amendment was brought up under the Suspension Calendar. I think you would agree that the Suspension Calendar is not an appropriate place for amending the Constitution of the United States, since it allows no opportunity for amendment; it allows 20 minutes of debate on a side.

Twelve, I believe it was, or 14 original co-sponsors of the Equal Rights Amendment voted against it, including half Democrats and half Republicans, because of the manner in which it was brought forward.

The chief argument -- there were two. One was, many people wanted to offer an abortion-neutral amendment which would say the Equal Rights Amendment would not either promote or deny abortions in the country.

And the second one was the question of whether or not the Equal Rights Amendment as therefore stated would have eliminated the opportunity for single-sex schools, including Catholic seminaries and certain Jewish synagogues to continue.

And third, you talked about --

SENATOR WATSON: Excuse me. Would you run that one back past me, please?

CONGRESSMAN LUNGREN: Yes, I'll be happy to.

Those were the two major amendments that were to be offered.

SENATOR WATSON: No, just repeat --

CONGRESSMAN LUNGREN: One was the abortion-neutral amendment. The second one was to make sure that that bill would

not affect the question of single-sex institutions, such as Catholic seminaries, and such as certain Jewish synagogues, Conservative Jewish synagogues.

Those were the amendments to be discussed. You may be quizzical about it, but those amendments were not even allowed to be discussed. That's why you probably don't know about what we were going to discuss. We were denied the opportunity.

The Equal Rights Amendment most probably would have passed with those amendments along with them.

You talked about Title 10. I voted against --

SENATOR WATSON: But these were never discussed publicly?

CONGRESSMAN LUNGREN: Yes, they were discussed in committee, as a matter of fact, since you asked. I was engaged in the debate on the Committee of the Judiciary --

SENATOR WATSON: Well then I didn't understand.

The reason why I'm asking is because I didn't understand what you were saying in the last two minutes. You might want to clarify that.

CONGRESSMAN LUNGREN: We happened to deal with it in the full Judiciary Committee. We were engaged in debate. In fact, we made a record of the debate when questions could not be answered as to the impact on questions such as abortion or single-sex institutions of education.

That debate was supposed to be made a part of the record, the record that would be part of the report that would be brought to the Floor. That was made in order by a ruling of the Chair in the Judiciary Committee.

Instead, the bill was brought to the Floor under the Suspension Calendar, with no report issuing from the Committee, with no opportunity for debate, with no notice to the Republican side.

The Equal Rights Amendment was defeated because it was brought up as a pure political effort, not as an effort to pass it.

Now, when you're talking about --

SENATOR WATSON: I'm ashamed of you for saying that, but go ahead.

CONGRESSMAN LUNGREN: I don't understand your point. Is there a point you're making?

SENATOR WATSON: I've made it.

CONGRESSMAN LUNGREN: When I voted against the Title 10 extension, they had taken out abortion language that had been part of the House bill when it passed. It had been traditionally a part of the bill. It was removed.

You talk about me voting against the Select Committee on Hunger. I didn't know you were so concerned about how we organize ourselves in the House of Representatives.

SENATOR WATSON: Don't play games, Congressman.

I am concerned about your vote.

CONGRESSMAN LUNGREN: That's right.

SENATOR WATSON: And would you please --

CONGRESSMAN LUNGREN: Mr. Chairman, I would be happy to answer the Senator if I'm allowed to be given my chance.

SENATOR WATSON: Yes, but you're casting aspersions that are not there.

I'm asking -- I said you voted this way. And you said to me, "I didn't know you were so concerned." I'm concerned about your vote.

CONGRESSMAN LUNGREN: Mr. Chairman, I'll be happy to answer questions of Members of the Committee, even those that are put on --

SENATOR WATSON: Well, let me go on with another question.

You voted no to appropriate money for --

CONGRESSMAN LUNGREN: Voted what?

SENATOR WATSON: You voted no to vote for money for community health centers.

CONGRESSMAN LUNGREN: Right.

SENATOR WATSON: Twenty million.

Would you like to explain that one?

CONGRESSMAN LUNGREN: Given the other call on the federal expenditures at that time, I did not think that that was an appropriate expenditure of federal funds.

SENATOR WATSON: Okay.

CONGRESSMAN LUNGREN: The amount of money was not significant in terms of the need that could be addressed on the local level. And as long as we started various different programs with small amounts of money that would only grow and therefore not allow us to take care of some of the programs only we could take care of, I will vote against those particular programs.

SENATOR WATSON: All right.

And you voted no for an appropriation in 1985-87 for preventative health services block grants, family planning and the adolescent family life programs.

You voted no in 1985-87 for grants for alcohol, drug abuse, and mental health programs, and for 1985-88 for developmental disabilities aids.

You voted no for an amendment to strike language from the bill that would prohibit the use of Federal Employee Health Insurance to pay for abortion except when the life of the mother is endangered, and it goes on and on and on.

CONGRESSMAN LUNGREN: That's the majority position in the House of Representatives, as you well know.

CHAIRMAN ROBERTI: We are going to try to conclude at five past six and give the Congressman five minutes for a rebuttal.

SENATOR WATSON: All right.

I would just like to finish up by saying, I have researched your voting record very, very closely, and in the area of health and human services, issues of family, issues of children's health, your record has been nil.

I'm quite concerned about that because the Treasurer in the State of California is very powerful. The former Treasurer has formed a nationwide Association of State Treasurers because that Treasurer sits on over 40 committees, many of them with just three people. That position is very influential.

And I can't, in my research, see why I should vote to put someone in that office who has voted against all the programs that I care about, and all the programs that show a real concern about human conditions over fiscal conditions.

CHAIRMAN ROBERTI: Thank you, Senator.

We have one witness who earlier had indicated he wanted to testify and was not in the room at the time, Mr. Bill Melamed, a Member of the Board of Governors of the Municipal Elections Committee of Los Angeles.

Mr. Melamed, you can either take the podium or take one of the chairs.

MR. MELAMED: I'll do it from the podium.

I'd like to thank the Committee for the chance to speak.

If I reiterate a couple of things that you may have heard, it's only because I traveled from Los Angeles because I think it's important that these things be said.

MECLA is the oldest nonpartisan political action committee in the United States, acting on behalf of gay men, lesbians, and nonlesbian women.

MECLA's gone on record already with the Governor, with every Senator, with every Assembly Member, and all of the media in this state that the confirmation of Congressman Lungren would damage the progress for which we and many of you have struggled for so long.

Given the Treasurer's influence and position on over 40 boards and commissions, it's especially important that he or she be sensitive particularly to policies that adversely affect

groups on the lower rungs of the civil rights ladder, such as the gay and lesbian community.

Judging by the Congressman's ultra-right conservative voting record, it would appear that he would not sensitive.

In the area of civil liberties, the Congressman has voted against the 1984 Civil Rights Act, standing almost alone in defiance of a 370 vote bi-partisan majority.

The Congressman has voted against the 1987 Hate Crimes Statistics Act, an Act that called only for the collection of data concerning crimes based on religious, racial, ethnic, sexual orientation bias. As you all know, crimes of hate are not tolerated by California law, but Lungren voted against even studying the issue.

His votes against the women of this land are equally abysmal. He voted against the study to determine whether or not differences in pay and classification exist. He would not vote for re-authorization of family planning services. We agree with the American Association of University Women which gave him a zero rating in his responsiveness to the concerns of women and children.

Perhaps no other record is as chilling as Dan Lungren's votes on AIDS. In what could be read as a referendum on every Congressman's compassion and commitment to saving lives, the Congressman has voted against AIDS research money. I heard him say today repeatedly that he does not want to wait until a health problem becomes catastrophic to find the solution, and yet when asked about AIDS, he says he hasn't given it that much thought, and that in time he could make some decisions.

As Treasurer, he must approve bond funds for the University of California capital outlay. Some of those monies would be used for AIDS research. If we cut those bonds, we could cut that research money. It's a savings we cannot afford.

Further in his record of political opinions, he's countered the Surgeon General's recommendation and voted to require mandatory AIDS testing of homeless people.

He has consistently voted against the use of public funds for abortion services. As Treasurer he would serve on the Board of Public Employment Retirement System, which would improve [sic] all the State employee health plans, all the of which provide abortion benefits.

As Chair of the Health Facilities Financing Authority, he would have jurisdiction over tax exempt revenue bonds which are provided to nonprofit hospitals for capital outlay and equipment purchases. Nearly all of the facilities that receive these funds provide abortion services. His posture as a Member of Congress would indicate quite clearly he would not approve bonds for those hospitals that included those services. Tax exempt hospital construction could come to a halt.

Even if you were to somehow agree to uphold the law, despite his distaste for some of its portions, the law is silent as to what kind of facilities are eligible for funding. There is a discrimination allowed there, or determination to be made.

Based on his past performance, we believe he would discriminate against women in need of medical care. Further more, affirmative action and prevailing wage provisions in bond

finance projects would be jeopardized by virtue of the fact that he's twice been named one of the top 10 most conservative Members of Congress.

From AIDS research to meals for seniors, from legal services to catastrophic health insurance, from child nutrition to community health centers, from a national AIDS commission to Medicare, Congressman Lungren has voted against it all.

MECLA and the thousands of citizens we represent will not stand silently by while this administration creates a mockery of the office of Treasurer, and the people of the State and I hope that you will take this to heart and vote no.

CHAIRMAN ROBERTI: Thank you, Mr. Melamed.

Any questions? Hearing none, thank you.

SENATOR WATSON: Senator Roberti, I just wanted to --

CHAIRMAN ROBERTI: Senator Watson.

SENATOR WATSON: I have several hundred signatures here, petitions, that oppose the Lungren nomination based on the concerns I raised. I'd like to just submit these for the record.

CHAIRMAN ROBERTI: Make sure the Members of the Committee receive copies.

Is there anyone in the audience who would wish to testify? I may be getting myself in trouble by asking.

No, so Congressman, you may conclude.

CONGRESSMAN LUNGREN: Thank you, Mr. Chairman.

It's hard to tell where to begin. Let me just say that it's been an interesting experience for me here today, and one I hope that has shed some light in terms of my responses on my record.

Let me refer to a couple of points made. First of all was the point made by the National Women's Political Caucus that I have no fiscal policy experience.

I'm afraid people misunderstand the responsibilities of a Member of Congress in terms of our authority for budget matters in terms of agencies under our jurisdiction.

I just might repeat that I've been on the Judiciary Committee for now ten years. We have the full responsibility for the budget of the Justice Department, the FBI, the DEA, the courts of the federal government, as well as the prison system of the federal government, in the neighborhood of $5.3 billion.

I mentioned before the work that I do on the permanent Select Intelligence Committee where we have responsibility for all the intelligence matters of the United States, and of course I've also mentioned the work I've done on the Joint Economic Committee.

With respect to the Legislative Council for Older Californians, part of the National Council of Senior Citizens, I respect their right to come out against me. I mean, they come out against almost every Republican. They endorse about 99 out of 100 Democrats, and that's their right.

A number of their issues are very different than the issues that I think affect senior citizens. One of those that was mentioned was the -- that I voted against the minimum benefits under the Social Security Act.

If I could just explain for a moment so people have a full understanding of that, the minimum -- this was in the

context of us attempting to deal with the overall financial crisis then facing the Social Security Administration. As you may recall, in 1982 the President of the United States, Ronald Reagan, made recommendations as to how we could best deal with the crisis of funding for Social Security.

You may also recall that as a result of him coming forward with some recommendations for consideration, we on the Republican side lost 26 seats in the '82 election. And following that, in the lame duck session in October, we reconvened and we then had a bi-partisan effort to take care of the problem, adopting many of the proposals the President had suggested, but for which Republicans were beaten at the polls that November.

But that -- we came back for lame duck in December. I didn't mean to say October.

One of the approaches was to restructure the minimum benefits question. As you may know, if you barely qualify -- that is, if you get the minimum number of quarters to qualify for Social Security -- you receive minimum benefits.

That is not in concert or not consistent with the contributions that you made vis-a-vis the other people receiving Social Security benefits.

Since we discovered that a large number of people were getting just the minimum number of quarters to qualify for Social Security so that they could qualify for Medicare, there was a feeling that they did not get the Social Security benefits for the purpose of the Social Security payments, but rather for Medicare.

Additionally, we discovered that those who qualified for SSI had deducted from their SSI payment the minimum benefit that consisted of that amount which was above the contribution level to which they were entitled. So the people that presumably were to receive the minimum benefit that really needed it, i.e., those on SSI, didn't get the benefit because it was deducted from SSI. To the extent they got a minimum benefit over their contribution level, they got a decrease in the SSI.

So when we eliminated the minimum benefit and brought it down to the level that people in fact had qualified for by their contribution record, we didn't hurt the people at the lowest end of the spectrum because their SSI went back up to the full amount. And it was a matter by which we thought it made sense on a number of things to try and deal with the Social Security fiscal crisis that then affected us.

I happen to think it was in the long-term interests of senior citizens because it helped us move towards a system of Social Security of funding that made some sense, but that organization took it as a vote against senior citizens when I don't think it was at all.

I've already talked about the catastrophic health. The NOW organization and some others have talked about my abortion position.

I mean, Mr. Chairman, that ought not to be an issue in contention. I mean, the fact of the matter is I do have a pro-life voting record. I have had a pro-life voting record. I will continue to have a pro-life voting record.

But I will tell you --

CHAIRMAN ROBERTI: It may make you understand that I haven't orchestrated your opposition.

CONGRESSMAN LUNGREN: Well, absolutely, not entirely. I understand that completely.

Now with respect to the 1984 Civil Rights Act that was mentioned, the 1984 Civil Rights Act has nothing to do with the 1964 Civil Rights Act. The 1984 Civil Rights Act has to do with the bill that was introduced to overturn the Grove City case as then decided by the U.S. Supreme Court.

In dealing with the particular bill, there was a major concern that was expressed about the impact on the question of abortion. And in fact, one of the major participants in the National Leadership Conference on Civil Rights, the U.S. Catholic Conference, withdrew its support for the bill unless or until an abortion-neutral amendment was adopted.

I stood with them on that. Very lonely at that particular time because only a few of us, 32 or whatever it was, were against it because a lot of other people said, well, it'll be taken care of in the Senate.

It was never taken care of in the Senate. The bill died there.

As many of you recall if you've been watching what's happened in the U.S Senate, just two-and-a-half weeks ago the U.S. Senate took it up and finally passed the equivalent of the 1984 Civil Rights Act with one major change: an abortion-neutral amendment offered by Senator Danforth of Missouri,

supported by any number of Democrats as well as Republicans. And in fact, that amendment has the support of the American Hospital Association.

The bill has now been sent over to the House. Initially, some said, they were going to try and get that kicked out. Now the prevailing wisdom appears to be they are going to retain the abortion-neutral amendment on that particular bill so that that bill will not have the effect of requiring a Catholic hospital to perform an abortion against their policy and against their teaching.

That bill most likely will pass now, and I'll support it with that amendment on it. The decision has not been made by some in the House who schedule that whether they will bring it to the Floor, because they know that the abortion-neutral amendment will remain.

So, I don't mind having my record looked at, but when someone comes up to the 1984 Civil Rights Act and conjures up the fact that it's a mere extension of the '64 Civil Rights Act, and I'm against that, I think we ought to look at it.

The last thing to deal with is the Hate Crime bill. The Hate Crime bill came up before our committee. I objected to a bill that purports to collect data on hate crimes because I don't think statistically we can do it. Why? Because in many jurisdictions they don't define the crimes as hate crimes. And in many jurisdictions, even though someone could be charged with a hate crime, they are charged with a simple assault, or they are charged with aggravated assault.

The fact that the motivation was their hatred toward the individual because of his or her background, or race, or color, is not a part of proving the case in court. So it's not contained in the prosecutor's jacket.

And when the federal government is therefore in the Justice Department required to gain all those statistics, they have to do a lot of guess work. And my problem with that is, we'd get lousy statistics.

If they could shown me that in fact we'd have valid statistics, I would have supported it.

An amendment was introduced by a Republican Member of the House of Representatives on that committee to remove the section of that Hate Crimes that dealt with crimes against gays and lesbians. And I fought against that amendment and I spoke against that amendment. And I got credit from Barney Frank, who happens to be the gentleman who was carrying the bill, for getting a vote against removing gay-bashing crimes from the bill.

My point was, I didn't think the bill could be done, but if we were going to have a bill, we ought to count crimes against gays and lesbians because those are hate crimes.

I was against the bill because I didn't think it would work. I was against removing the amendment dealing with gays and lesbians because I thought that was a legitimate concern under a bill if the bill were going to pass.

I'll stand on that record any time.

Thank you, Mr. Chairman.

CHAIRMAN ROBERTI: Thank you, Congressman.

This concludes our hearing for this afternoon. We will reconvene at 9:30 in the morning.

(Thereupon this hearing before the Senate Rules Committee was adjourned at approximately 6:12 P.M.)

--oo0oo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of February, 1988.

EVELYN MIZAK
Shorthand Reporter

500
29
988
0.8

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

GOVERNOR'S APPOINTEE
Daniel E. Lungren, State Treasurer

Volume II

DOCUMENTS DEPT.

FEB 2 0 1988

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 112
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 17, 1988
9:30 A.M.

T-090

Additional copies of this publication may be purchased for $10.10 per copy from:

Joint Publications
State Capitol, Box 942849
Sacramento, CA 94249-0001

Please add 6 percent sales tax. Make checks payable to STATE OF CALIFORNIA.

BEFORE THE

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

re: GOVERNOR'S APPOINTEE)
)
Daniel E. Lungren,) Volume II
State Treasurer.)
)

STATE CAPITOL

HEARING ROOM 112

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 17, 1987

9:30 A.M.

Reported by:

Vicki L. Medeiros
Shorthand Reporter

COPY

COMMITTEE MEMBERS PRESENT

SENATOR DAVID ROBERTI, CHAIRMAN

SENATOR HENRY J. MELLO

SENATOR JIM ELLIS

SENATOR NICHOLAS C. PETRIS

SENATOR WILLIAM CRAVEN

STAFF MEMBERS PRESENT

Nancy Michel

Pat Webb

Cliff Berg

APPOINTEE

Congressman Daniel E. Lungren

I N D E X

--o0o--

	Page
Proceedings	1
Opening comments and discussion	1
Jobs, Workers, and Retiree Issues:	
Tom Rankin	31
Jerry Cremins	35
PERS/STRS - Investment and Retirement Issues:	
Maura Kealey	40
Andy Baron	50
James Gordon	54
General Labor Issues:	
Don Watson	55
Seniors:	
Lillian Rabinowitz	58
George Sandy	62
Frank McPeak	64
Afternoon Session	86
General Testimony:	
Ralph Morrell	86
David Low	133
Henry Der	136
Honorable Arcadio Viveros	141
John Gamboa	151
Arnold Torres	157
Raymond Johnson, Jr.	170
Rebuttal by Congressman Lungren	178
Adjournment	200
Certificate of Reporter	201

--o0o--

PROCEEDINGS

--o0o--

CHAIRMAN ROBERTI: The committee will come to order.

The portion of this morning's hearing will be devoted to jobs, workers and retiree issues. We will go to roughly to twelve o'clock, maybe a little thereafter.

Yes. Senator Petris.

SENATOR PETRIS: I would like to get the Chair's permission to make a couple of comments and ask some questions.

I did not talk at all yesterday to the Congressman except in private. I just want to touch on a couple of things on housing and move on. I won't delay it very long.

Yesterday, you expressed some concern about the mode and style based on a memo that Senator Roberti squelched.

Congressman, first of all I want to say that I think we're all impressed with the -- all the observers I think would agree with your -- well, you have a certain amount of pizazz, let's put it that way. You come through as a bright person, very conscientious and devoted Congressman who knows how to work his district. We're all envious of that, especially the way you've turned it around. I think we could all learn a few things from that.

It's followed with dedicated devotion to the people in your district as witnessed by the projects that you mentioned that you worked on to make sure they were either adjusted and corrected and so forth.

We all, as being in the political arena, admire that. You're certainly very articulate.

There are a couple of things I would like to point out and then ask just a few basic questions on the housing thing.

I feel a need to respond or comment on your apprehension about coming into a partisan arena. We live in a partisan arena here just as you do back in Washington except I understand that it's a lot more partisan back there in Congress.

I think it ought to be pointed out that you're being considered for a partisan office officially on the statute and it is reflected on the ballot as a partisan office.

As someone indicated yesterday, I think our Chair, since this office is not going through the normal distillation process of the election and the debates and the issues, we are kind of in the place of the voters bringing out the issues that effect the performance of this office. They have a bearing on it.

To me it seemed a little ironic, and I want to share that with you, that the partisan warning, so to speak, was

emphasized in view of the fact that the Governor has injected you into a partisan arena regardless of who you are and what your background and what your philosophy is and what your voting record is. I think that is highly dramatized and exaggerated in its partisan flavor by your voting record.

I, for one, as I told you when we meet privately, would like to raise a question with the Governor given the fact that the prior Treasurer was a solid Democrat, very liberal Democrat in his earlier years and less liberal in his later years, was elected three times, and the last time without very much opposition. He always piled up very impressive votes. Why shouldn't he have appointed a Democrat, for example?

None of us expect to, and none of us has asked him to. But I shudder to think what the scenario would be if Jerry Brown had been Governor, or any Democratic Governor, and a popular, three-time-winner elected statewide constitutional officer had died in office, and Jerry Brown reached out and instead of appointing somebody from the Republican Party, appointed somebody from the Democratic Party.

I know it's expected and everybody accepts it, but we've been worked over pretty heavily by some of our Republican colleagues in the Legislature, especially in the other House. In this House we have a much more mellow approach to each other. Pardon the bad unintended pun,

Senator.

I don't think we should be treated like -- although some politicians think they are gods, I suppose, but we shouldn't be treated like gods on Mt. Olympus above the fracas. We're part of it. Our duty is to be part of it because we occupy partisan offices, and the Treasurer's Office is a partisan office.

I just wanted to make that comment.

CONGRESSMAN LUNGREN: May I respond to that, Senator?

SENATOR PETRIS: Yes.

CONGRESSMAN LUNGREN: Senator, I have been in politics since I was six years old. I've campaigned for Republican candidates since I was six years old. I've done everything from walking precincts and handing out literature before I was even old enough to go to school to making speeches.

I'm not afraid of any tussle. I think you can see I'm here, sitting here listening to twelve people talk against me, have a staff and a committee here ready to suggest that I'm not qualified to be Treasurer. That does not bother me one darn bit.

The suggestion that somehow I should understand that I'm here in the big city, I find rather ironic, from the Chairman yesterday. I haven't really been out in the tules

for the last ten years.

To coin a phrase from someone else in Washington this year, I haven't exactly been a potted plant out in the backyard someplace. I've been in Washington, D.C. That is the big city, as is Sacramento. I know how to be involved in partisan phrase.

But to suggest that on the surface one is told that one is to have a fair, full and nonpartisan hearing, and then to have a memo come to the Floor and have the suggestion that yes, we've changed some things and we're not going to follow it, but the observation from most of the people in the press is that it has been followed pretty accurately, to have a partisan, prosecutorial brief presented by the head of the Democratic caucus in the Senate inserted into the process, contrary to what I was told on the previous Friday.

Those things suggest that there is partisanship going on around here that, yes, I will admit to you that I am not used to. I'm used to working in Washington, D.C. partisanship up front. Up front.

I battle people straight out on the Floor of the House. I don't make side deals or tell them one thing and then have something else happen.

I'm perfectly willing to be judged on my merits. I'm perfectly willing to be involved in some partisan tussle. That doesn't bother me a bit.

I'm just talking about fairness. I'm just talking about openness. I'm just talking about a complete record being presented.

$15,000 for a report? $15,000 of the taxpayers money? You couldn't find barely a single thing that is positive about my entire record after ten years? The most positive thing I did was on crime? That's got about the smallest amount of space in there?

People who have contacted me, who have given me copies of letters they have sent to the Chairman, and to the staff here, saying positive things about my record, no mention is made of that in here.

I'm not naive. I've tried to tell you that all along. I try to be open, and I try to believe what people tell me. But I can't afford to be naive. I see all these things happening.

I have to understand what the script is. The script is being followed very carefully, and I might say done very well.

All I'm saying is that I understand that. I'm not angry about it. I guess it's more in sorrow than in anger I say this because I expected something a little differently. I'm not talking about you personally in any respect whatsoever.

SENATOR PETRIS: Okay. I understand, and I

appreciate that.

CONGRESSMAN LUNGREN: I don't want you to get the feeling that I'm afraid of a partisan conflict. I've never backed down from a partisan conflict in my life.

SENATOR PETRIS: I didn't think so.

CONGRESSMAN LUNGREN: I want to know what the rules are.

When the rules are presented to me one way, and then we commence the game, and the rules are changed, I've got reason to be a little skeptical if not cynical about it. That's all.

SENATOR PETRIS: I got the impression yesterday that your criticism was aimed primarily at a "partisan" arena. Now, you have clarified that.

CONGRESSMAN LUNGREN: There is partisan and there is partisan.

SENATOR PETRIS: Let me give you an example of up front partisanship. A letter went out from the Senate leader, the Senate Republican leader, to raise funds based on your nomination. It was mentioned briefly yesterday by Senator Torres.

CONGRESSMAN LUNGREN: Someone mentioned how disappointed they were about the outcome of the money.

SENATOR PETRIS: Yes.

CONGRESSMAN LUNGREN: That's right.

SENATOR PETRIS: This is up front partisanship. The letter says in part:

"We don't have the votes to confirm Dan Lungren without winning the votes of five Democrats and one Independent.

"Obviously, all 15 Republicans support the Governor's choice. These Democratic Senators are very partisan."

That's an interesting standard. That's why I brought up the question.

It's not partisan for the Republicans to line up in a bloc and not one of them object and not one of them raise a criticism of any kind, at least not publicly; but if the Democrats -- and it has been established that the Democrats are going to line up unanimously, if they do it, they're partisan.

This rankles me because I get this over and over and over again from a few, and I will emphasize that, a few members of the loyal opposition from time to time.

Let me finish the letter.

CONGRESSMAN LUNGREN: I can assure you that I was not the first choice of many of those behind me in the Senate.

SENATOR PETRIS: Let me finish the letter.

CHAIRMAN ROBERTI: The last paragraph, I will help

you, Senator.

I was accused because a staff member puts out a memo, which I disavow, of being overly partisan. Nevertheless, Senator Maddy can put out a memo raising money for the Republican Party, not a staff member, but a leading Senator who is going to carry, I assume, Congressman Lungren's nomination on the Floor --

CONGRESSMAN LUNGREN: That's not a memo.

That is an open letter.

CHAIRMAN ROBERTI: This is a fight-- well, an open letter, worse.

CONGRESSMAN LUNGREN: It went public.

CHAIRMAN ROBERTI: This is a fight we can't -- well, it didn't go public to Democrats. We happened to get it because someone was kind enough to send us one just as I'm sure someone was kind enough to send you a copy of my memo. Not my memo, either. Excuse me. This is a fight we cannot afford to lose.

CONGRESSMAN LUNGREN: A little Freudian slip.

CHAIRMAN ROBERTI: "This is a fight we cannot afford to lose. Let not Willie Brown and David Roberti terrorize George Deukmejian."

That is the first time that anybody has said that I have been able to have that much power to terrorize George Deukmejian.

"Like the Democrats do to Ronald Reagan in Washington.

"Join with the Governor in this important fight. Thank you."

Raising money. Raising money.

CONGRESSMAN LUNGREN: I'm shocked.

CHAIRMAN ROBERTI: Connected -- well, you're talking partisanship. You're talking about something up front.

CONGRESSMAN LUNGREN: I'm shocked that you would be shocked that people would send out a red-meat letter for fundraising. I can tell you --

CHAIRMAN ROBERTI: I'm shocked that you're selectively -- let me continue, and then I'll give you plenty of time.

I'm shocked, Congressman, that you pick a memo written by a Democratic staffer for condemnation, not a word from you on the Maddy memo, and when you were asked by the press, you said, well, he has every right to do it. Well, I guess he has every right to do it.

But the fact of the matter is, if you're going to be shocked by partison memos, then at least be a little bit fair about it.

CONGRESSMAN LUNGREN: May I respond, Senator?

CHAIRMAN ROBERTI: Sure.

CONGRESSMAN LUNGREN: You're doing a very good job

of trying to turn around what happened yesterday. I understand that. I understand politics. I understand you might be a little upset over the press coverage which suggested that in fact the hearings followed the script very carefully even though, of course, you repudiated the script.

Let me just say this. I did not write that letter. I was not consulted on that letter. I do not participate in the letter, nor do I benefit from that letter.

CHAIRMAN ROBERTI: I take you at your word, Congressman.

CONGRESSMAN LUNGREN: Mr. Chairman, may I speak?

CHAIRMAN ROBERTI: I take you at your word.

CONGRESSMAN LUNGREN: That's a very good prosecutorial technique. I've seen it in the courtroom often. You're doing a very good job.

CHAIRMAN ROBERTI: Your's is a very good partisan technique.

CONGRESSMAN LUNGREN: You're doing a very good job today.

I would just like to know whether this is what you intend to do. Are we going to go on with the hearing, or are we going to try and distract ourselves and try and undo what was done yesterday? If you want to do that, we can play that way --

CHAIRMAN ROBERTI: I would like to go on the hearing

but you brought up the memo.

You started off with the memo, and at that point I think we had no --

CONGRESSMAN LUNGREN: That's incorrect, Senator. Senator Petris started off by talking about partisanship.

SENATOR PETRIS: No. You started off yesterday. Excuse me. I'm just responding.

Now with all due respect to you, let me finish my --

ONGRESSMAN LUNGREN: May I please respond?

Senator, there is a major difference, and everyone knows it.

If you want me to talk, I'll be happy to talk, and I'll explain to the cameras and everybody else what it is.

There is a major difference between sending a letter through the mail that you know is going to go out and people are going to understand it, and another thing to develop a memo that talks about your strategy here which is absolutely contrary to what I was being told at the very time I was discussing with your staff what was going on.

I understand that this memo doesn't lead very far. This memo only goes to one of your top staffers. I understand according to what I've read from Mr. Walters that you did change a few words in it, but that for Mr. Walters it is still to be followed, but you changed the word from prosecutor to lead questioner. So, I appreciate that.

I understand that you didn't have Senator Keene mentioned as the lead-off hit man in your piece. You had him later on. I understand you changed that.

I understand also that I was told specifically by your staff, by Mr. Berg on Friday, and Ms. Michel on Friday, precisely how we were going to go. I was even given a memo on how things were to go. Absent from that memo, which I still have, is any mention of a hit piece by Mr. Keene.

It says "Senator Roberti opens." It says "Congressman Lungren offers opening statement." Then it says "We go directly into financing authorities," which I was told.

I was also told that the first prosecutor would be Senator Torres; and, in fact, it was. No mention was made of a prosecutor's brief being presented by Senator Keene, with no opportunity for me to rebut. I saw what happened here and so did everybody else.

So, let's not play games. We understand what is going on. I understand what is going on. The public understands what is going on. I'm happy to proceed to specific questions on --

CHAIRMAN ROBERTI: We will get to specific questions, but let's --

CONGRESSMAN LUNGREN: -- substance. I'll be happy to tell you that I'm not afraid nor ever, ever have been afraid

to deal with partisan questions if that's what you want to do.

My complaint, if that is what it is, is to be told one thing and have something else take place.

CHAIRMAN ROBERTI: We appreciate your concern, Congressman, however, in the whole process of the appointment, the Governor has indicated to us that we should not become partisan, that he wasn't going to become partisan, that we should confirm who he thinks is the best person.

We're not just talking about the process of this hearing. We are talking about the entire appointment process itself.

We're not going to allow the criticism to be contained only to where the Democrats are in charge. What about when the Republicans were in charge?

The first thing we get -- the first thing we get as far as the process is concerned, the opening gambit, is the letter from Senator Maddy indicating that they were going to raising money on your campaign, confirmation process or whatever.

The point of it is, one major fear the Democrats have always had -- we might as well talk partisan because it's a concern -- is that you're going to use your position, or your position is going to be used for Republican politics, and in such a way that you wouldn't have even been elected by the

voters, but for Republican politics in such a way that we, the Democrats, would have to actually confirm you to a position in which you're going to use against us, and it's confirmed in the Maddy letter.

CONGRESSMAN LUNGREN: Senator, I --

CHAIRMAN ROBERTI: I gave you plenty of time to talk.

It's confirmed in the Maddy memo, and doubly confirmed by your initial response to the Maddy memo that you did not see anything wrong with it.

We've heard silence from the Governor who made the initial appointment.

Now, I understand how you would be concerned about the memo came from my staff. If I were in your position, I would be equally concerned. The best I can tell you, Congressman, is I disavowed it.

Yesterday, there was nothing going into your personal history, your personal life history. Quite frankly, there is nothing that could go into your personal history or personal life to the limited extent that I know anything about it.

The questions were legitimate. They went to your philosophy. They went to your voting record. There was nothing condemning, as far as a condemnation personally. They were not prosecutorial.

If we don't have a right to ask questions on policy, what are any of us doing in the positions that we have?

But the Governor had indicated he was appointing the very best man. We should not be partisan. He was not being partisan. Then we get this letter from Senator Maddy.

What strikes me as funny and strange is the Republicans become very selective in their outrage over a Democratic memo from a staffer but not one from the ranking Republican in the Senate. That's selective outrage if I've ever heard it.

CONGRESSMAN LUNGREN: Mr. Chairman, I was unaware of your express concern about the Treasurer's Office and the partisanship of it when it was occupied by the prior occupant.

I guess we all have concerns at different times in our lives.

SENATOR PETRIS: Can we proceed with the --

CHAIRMAN ROBERTI: Senator Petris has the Floor.

SENATOR PETRIS: Let me finish the memo -- the letter, and I'll get to my questions. Maybe we'll get this part of it behind us and get into the policies.

"Third" says the letter, "in this non-partisan arena, as the only Republican statewide office holder, Dan would be in a critical position to help Republicans get elected to office.

"He is an articulate spokesman for the Republican cause. He will be of critical importance in fundraising to help elect more Republicans to office."

Normally in campaign season that's fair game. It's not fair to do this, as Senator Roberti has said, and in my judgment, and then come in and complain about some partisanship.

All right. Now, let me get into a couple of questions on housing, if I may.

First, I think it's a little unfair of the Governor to put you in this hot seat, so to speak. Let me tell you why.

Regardless of all this discussion going on now, the bottom line is what is the track record. How do you view the world? How would you view the world sitting as a Treasurer in the various boards and commissions that were described yesterday which are not simply ministerial duties but have a tremendous amount of discretion in the financial area of funding, so many things, housing and hospitals and a bunch of other things.

When a person looks at the voting record, and then looks at the statute, or a number of statutes, there is an immediate difficulty created.

One of the problems that I have is that there is an affirmative duty in some of those statutes for the Treasurer

to do certain things which are opposed to your consistent policy.

Well, I know you said yesterday, well, I'm going the follow the law. But there is a lot more called for than just following the law. It's a matter of moving in a direction affirmatively of doing certain things.

One of them is to help local people, local agencies or local recipients of the money that is allocated through the bonds to enforce that law, to carry it out in a fair and equitable manner without discrimination and so forth.

I'm sure that if an individual case were called to your attention of an injustice, you would fight hard to correct it. But I'm not so sure that you would reach out affirmatively to do the things that are required because your basic instincts, your basic philosophy clearly would go in an opposite direction.

That's why I think there is a bit of unfairness there. There is a quotation given to us regarding the views on homelessness, the fact that private and public agencies are fighting in many areas at the local level to find a solution. Bishop Quinn is quoted as saying, here in Sacramento, asking -- when the response is given that the private sector should do more -- we have been told that a lot of times. You haven't told us that.

It's part of that philosophy. The private sector

should do more. The religious community should do more. Bishop Quinn says that's like asking Sister Theresa of Calcutta to work harder.

To put it in the form of a question, I want to ask you, do you really feel, in view of your antipathy toward a lot of the programs, regardless of the reasons, some are based on not enough money, the budget crunch, some are based on philosophy, could you really reach out and do the job as a member of those boards that the statute is required to do in the light of what we've seen as the record?

Let me postpone the question for a minute and recite a couple of the things. I don't intend to take you through all those votes that you went through yesterday. I think that you had enough on the housing.

Now, if I can find it. It will take me a couple of seconds here.

Well, I had my hands on it and it has escaped. I just wanted to make sure I found it because of the numbers.

This is what disturbs me when I am looking at a person who is ready to go on this office and believes he can do an excellent job and carry out the statutes and so forth.

In the housing field in particular, some of the votes were mentioned yesterday, and I just wanted to identify some of them. The one on foreclosure threat that some of the veterans were facing on their VA mortgages. There was a bill

to bring them some kind of help. I don't know what the details were.

The vote was 394 to 23. You were one of the 23 that voted against providing that help to the veterans that were facing foreclosure.

Other votes in the housing field are as follows: 340 to 55, and you're on the short end of each one of these; 354 to 51; 282 to 110; 314 to 99; 324 to 95; 295 to 46. It goes on and on.

What it suggests to me is that we don't have a mainstream person here on a lot of the issues, not only not mainstream generally, but not mainstream in his own party.

When I look at that record, and I look at what the duties are in the housing area, I find a serious conflict there. It's not a matter as simple as the Attorney General's Office that you mentioned yesterday that, well, we had an Attorney General that didn't believe in capital punishment but he prosecuted those cases on appeal. That should not be -- it's not that simple a distinction.

That is more of a ministerial thing than the specific duties and affirmative duties given to the Treasurer. This is part of a pattern, and that's why it bothers me. It isn't just your appointment.

The Governor has made several other appointments, the overwhelming majority of which we've approved, over 95, 98

percent. I don't know what the count is but it is very high. We have only rejected a small number. But time and again it seems to me that he has put people in an administrative position to enforce the law who have devoted their entire public career to opposing that very law.

Case in point is the head of all the consumer agencies, who, as President of the Chamber of Commerce of this state, made many speeches deploring those statutes, calling them unnecessary, urging people to do what they can to oppose any further enactment of similar statutes in consumer protection.

Now that person winds up as the protector of consumers. It doesn't make sense to do it that way. It's unfair to the occupant of that office. It's unfair to the statutes.

If we're going to have policy differences, it seems to me the best way to attack them is to try to repeal those statutes.

Just as in OSHA -- we're coming up to labor stuff now. Instead of recommending to the Legislature that OSHA be repealed -- a statute that was signed by Governor Reagan I might add, when he was Governor -- the Governor chooses to pull the fangs, to remove the money and to close down the operation and turn it over to the Feds, not recognizing or acknowledging that there is an enormous difference in the

statutes between the degree of enforcement and the scope of enforcement, and the degree of interest between the Federal agency and the state agency.

I see you fitting, unfortunately, into that same category. A person who says that, well, I've done a lot to help the home or housing problem. You gave some very good specific examples in your district. You gave us the impression that you're a very good friend of those people ideologically who are trying to solve the housing problem.

Yet the people in Washington and here in California who have been working in this area for many years do not recognize you as a friend and supporter. There is that conflict going all the way through.

I know you're going to try your best to resolve that, but I just wanted to get on the table the concern that is not really a partisan concern. There are partisan differences, but the concern is trying to have an opponent of programs administer them or have something to do with policy and a wide range of discretion in a very important office that has a bearing on them. That's all.

I was not going to go down the list and ask you about these bills. I think you explained them all very well yesterday.

CONGRESSMAN LUNGREN: Senator, may I respond?

SENATOR PETRIS: Yes. Do you see what I'm trying to

get at?

CONGRESSMAN LUNGREN: Yes.

Senator, may I just say with respect to your peroration about the Maddy letter, I'll reiterate I had nothing to do with it. I understand those things happen in politics. I understand it wasn't very effective if people were concerned about it.

I understand how people can be concerned about the potential of raising funds there. I suppose the Governor could have done a better job of appointing someone else who has a better background and a better track record in raising funds.

If you folks are worried about me raising funds, I can guarantee you, go look at my record and you can see that wasn't the reason I was picked for this office.

I do find it somewhat ironic to be criticized on the one hand for being so out of the mainstream that it would not be appropriate for me to have that office; and on the other hand to have people here express the concern that I might be a gubernatorial candidate, or even be up for re-election.

I assume that if your argument is true that I'm out of the mainstream, you would want me as a candidate for re-election because you could easily defeat me by your very definition.

Let me just say with respect to your question of

whether I'm out of the mainstream. If your definition of the mainstream is to vote consistently for funding which brings us huge $200-billion-a-year deficits, yes, I'm out of the mainstream.

If the mainstream were defined in Washington, D.C. as a concern for fiscal responsibility, as a true effort to bring down the debt, as an effort to try and bring a balanced budget, then I'd be in the mainstream.

Unfortunately, we're in the minority, those of us who have been trying to bring down to deficit all these years.

I would just ask you this question, do you think the people of California would rather have the Governor appoint someone who had been in the mainstream of creating the National Debt, who had been in mainstream of making sure we had $200-billion-a-year deficits, or someone who had tried to fight against that and make some changes?

I would ask you another question. What was the -- what were the conditions of the economy when I went to Congress?

I'll tell you what they were. In the first two years when I was in Congress, in the Carter Administration, we happened to have inflation at 12.4 percent; 13 percent it was going to; 18.8 percent in May of 1980. People were talking about it going to 22 percent. Prime rate was 22 percent. How many houses can you build with a prime rate of 22 percent?

Employment was not only stagnant, it was going up; and it continued going up for the first two years of this administration. We had 10 percent unemployment in this country.

What do we have now? We have an interest rate that is down to 4.4 percent this year after being around 2.5 percent for the last two years. We have prime rates that are down in single digits. Unheard of just eight years ago.

We have an unemployment rate now that is down to the lowest rate that we have had in a decade. We have the highest number of people working in the nation in the history of the nation. We have the highest population employment percentage in the history of the nation.

While we have created 12 million new jobs in this country during that period of time, Western Europe has lost jobs.

The point is, some of us were attempting to change some of the things that were happening in Washington, D.C. I happen to think we are jeopardizing some of that progress by continued high deficit.

While I believe in the tax policy we've had, I don't believe necessarily in the overspending. That's the reason I have been voting time and again with respect to the budget.

CHAIRMAN ROBERTI: Did you vote for the tax -- I forget the name of it, 1981, the Tax Reduction bill?

CONGRESSMAN LUNGREN: Absolutely.

CHAIRMAN ROBERTI: Isn't it true that after that amount of time, one year, two years, the deficit became the greatest we have ever had the history of the country? The National Debt, I think, is larger than that of all the other president's put together,

CONGRESSMAN LUNGREN: Absolutely no connection.

CHAIRMAN ROBERTI: No connection at all?

CONGRESSMAN LUNGREN: Senator, do we want to go into that? I'll tell you why there is no connection.

CHAIRMAN ROBERTI: Let me just frame a question.

CONGRESSMAN LUNGREN: Well, you brought it up.

CHAIRMAN ROBERTI: Let me frame a question and then you can respond.

CONGRESSMAN LUNGREN: You already posed a question to me and I would like to respond. You posed a question.

CHAIRMAN ROBERTI: I did not pose any question. You said no connection and you swung off to that.

CONGRESSMAN LUNGREN: You ask a question and I'll be happy to respond to it.

CHAIRMAN ROBERTI: You said there is no connection between -- Fine. Respond.

There's no connection between the deficit and the debt.

CONGRESSMAN LUNGREN: And the tax rate changes we

made.

CHAIRMAN ROBERTI: And the tax rate changes.

CONGRESSMAN LUNGREN: If you take a static analysis, a static economic analysis of the changes we made in tax rates, you could project out that we would have a loss of revenues as a result of the loss of tax rates.

Obviously, if you have the same amount of economic activity going on and you bring the rates down, you're going to be bringing in less revenue to the government. We didn't do that. When we brought the rates down, we helped to expand the economy, there was greater economic activity than there would have been otherwise, and as a result, we brought in more money to the Federal Treasury than it would have otherwise.

If you will look at the top rates, you will see in the highest incomes of America, they are now paying a higher percentage of the total revenues to the Federal Government than they were before the tax cuts. Why? Because we brought them into tax-based income instead of tax-sheltered income.

We had a larger number of people in the higher income brackets actually applying, actually filling out forms, actually paying taxes than we did before.

We have had an average of $77 billion per year increase in revenues every year since we made that cut. The problem is not we haven't had an increase in revenues. The problem is that we have had an increase in cost, or an

increase in spending, that outstripped the increase in revenues.

We are now, with respect to the Federal tax take, at above the historical high that has prevailed since World War II.

CHAIRMAN ROBERTI: Your analysis is probably correct, but I don't agree with your conclusion.

I still believe that the tax cut had everything to do with the accelerating deficit and debt because it never took into consideration the increasing demands upon the Federal Government that were going to be taking place, both in the areas of domestic programs and in the area of defense.

CONGRESSMAN LUNGREN: With all due respect, Senator, that just doesn't make sense.

CHAIRMAN ROBERTI: Well, we don't agree.

CONGRESSMAN LUNGREN: No. You said to me that you understand my analysis and you believe it to be correct.

My analysis shows that we have greater revenues going in than we would have if we had made the cuts.

CHAIRMAN ROBERTI: Correct.

CONGRESSMAN LUNGREN: If you want to argue --

CHAIRMAN ROBERTI: Correct only to part of my comment. Correct only to the extent that yes we do have greater revenues coming in but not to the point where it does not take into consideration the increased demands.

CONGRESSMAN LUNGREN: Not increased demands. Increased decisions by the Congress to spend.

If what you're arguing to me is --

CHAIRMAN ROBERTI: Many of which you participated in.

CONGRESSMAN LUNGREN: I'm being criticized for voting against it here.

CHAIRMAN ROBERTI: You said it earlier. I didn't hear the quote. There is not a battleship you haven't ever said you didn't like. To give you one example.

CONGRESSMAN LUNGREN: I did not say that.

CHAIRMAN ROBERTI: You quoted somebody else.

CONGRESSMAN LUNGREN: We have two battleships in Long Beach Navy station. We'll be happy to keep them even though some other areas don't want to have them.

The point is, Senator, there has been no analysis done to show that the Tax Cut of 1981 caused the deficit. If you believe it does, then I suppose you would support a repeal which would fall most heavily on the middle and low-income people of America. Because the thing that by a static analysis did more to deprive revenue to the Federal Government, if you believe a static analysis, is the fact that we indexed the tax rates. That most heavily penalized, that is before we indexed it, the impact of inflation on tax rates most heavily impacted on the lower and middle income people

that you profess to be so concerned about.

CHAIRMAN ROBERTI: We indexed the tax rates here. We did it gradually, and if there ever were going to be a repeal, which I wouldn't favor, it would have to done gradually as well.

Once something is set in place, it's very difficult to repeal it overnight because people become dependent on a system.

CONGRESSMAN LUNGREN: The very fact that we phased in the tax cuts in 1981 contributed to some loss of economic activity because people waited till the following year to have the full impact of the tax cuts. If you're going to do it, you ought not to phase it in, you ought to have it done immediately.

SENATOR PETRIS: Mr. Chairman, I think we ought to get on with the witnesses. You know, we could bring in a dozen economists, and as we all say, you get a dozen opinions and reasonable persons can differ in their answers to what is said. Maybe we can talk about it privately.

CONGRESSMAN LUNGREN: With a dozen economists, usually you'll get thirteen different opinions.

SENATOR PETRIS: I think you're right. You know there is an answer to points -- I don't think we're going to debate economic policy.

The oil prices had an awful lot to do with inflation

in those days. Kissenger was over there urging the Arabs to raise their prices. That was established many years after the fact.

The economy was still growing in the last year of Carter's administration. It dipped afterward. There are all kinds of reasons.

The Congress -- I've read somewhere, I hope it's an authentic source. The Congress over the past several years has given the President a smaller budget than he asked for.

CONGRESSMAN LUNGREN: That's not true.

SENATOR PETRIS: The disagreement is the ingredients within it.

So, can we have, Mr. Chairman, the first witness so that we can get on with the --

CONGRESSMAN LUNGREN: That's not true, Senator.

CHAIRMAN ROBERTI: Mr. Tom Rankin, Research Director for the California Labor Federation.

To refresh everyone's memories, this is the section on jobs, workers and retiree issues.

Mr. Rankin.

MR. RANKIN: Mr. President, Members, thank you.

First, I should say I'm not here as a witness for the prosecution but as a representative of the interests of our two million members in the State of California.

I should also state from the outset that we only

oppose confirmations in a very few unusual cases. I think there were three prior to this under the period of George Deukmejian.

I would like to recall briefly one of those cases because it may provide for some interesting comparison. That is the case of Victor Vassey, a former State Assemblyman and Congressman, who was appointed by the Governor to direct the Department of Industrial Relations in 1983. We opposed Mr. Vassey on two grounds; one, his voting record, which was 18 percent correct, under the AFLCIO voting record compilation and our own; and two, on the basis of his actions during the brief period he which held the position.

Mr. Vassey did not receive a positive vote on his confirmation. I think the vote was 13-4, 20 against. This position in which the Senate voted to reject the nominee was not an elected position. It had less discretionary authority than the position we are talking about today. It was more circumscribed by statute. The holder of that position had less power, and less power to use the position for political purposes, I might add.

Today, we oppose a candidate for an elected position who has considerable discretion over large sums of money and the ability to influence decisions which affect hundreds of thousands of our members, retired employees, teachers, workers in construction and so forth.

There are important differences in the confirmation process because of these factors. The Constitution clearly gives the Legislative branch a stronger check over this kind of appointment. Both houses are, in our opinion, required to concur in a confirmation and the appointee is not allowed to take office until the Legislature has had the opportunity to act.

Under these circumstances we believe that the candidate's record becomes of paramount importance. It's the best indication of the values he will bring to bear on making decisions affecting the well-being of the citizens of this state.

Mr. Lungren's voting record, as compiled by the National AFLCIO, is abysmal. His cumulative record shows 143 wrong votes, 7 right votes, a five percent correct voting record. His voting record for the first year of the 100th Congress was 16 wrong and no right.

Now, this record is not compiled on a narrow set of issues. They are not simply labor issues. The bills used in the ratings include environmental concerns, housing, health care, civil rights, welfare, education and taxation.

Many of the bills that I'm talking about have been reviewed in the Senate Office of Research report. I won't go into too many of them.

I might go into a few of the votes from the 100th

Congress, the 16 votes I mentioned. Three of those votes dealt with trade issues. We've been speaking about deficits here.

We had a trade deficit of $170 million in 1986. There was a lot of activity in Congress to do something about curing that deficit and the devastating effect that that deficit has had on American industry. In three issues, relating to trade, Mr. Lungren voted incorrectly.

Jobs. Last year there was a vote in Congress to override President Reagan's veto of an $88 billion highway funding bill. That bill involved 700,000 construction jobs. Mr. Lungren voted against that override.

He's voted against construction industry contract protections for construction workers. He's voted against job safety. There was a high risk notification bill, an effort to promote early detection and prevention of occupational diseases. He voted wrong on an amendment that would have effectively killed the bill by substituting a study for that bill. He's voted wrong on bills to protect employees from polygraph tests. He's voted wrong on a bill regarding having to do with collective bargaining rights for housing authority employees. He's voted wrong on a bill to give federal employees political rights. I can go on and on.

The voting record, and his record I might add after speaking with some of the lobbyists for the National AFLCIO,

his record of speaking on the Floor shows him definitely to be on the right end of the political spectrum. Only ten out of 435 Congressmen and women had worse cumulative voting records.

I might add at this point that two of the State Senators which were under consideration and talked about for this position had voting records of approximately 50 percent under our compilation.

The record is important because it reflects the values for the candidate for the job. I think it reflects his insensitivity to the needs of working people, poor people, homeless people and retired people.

It might be another matter if he had a brilliant record as an expert in the issues faced by the Treasurer, but we don't see evidence of that.

We ask you to exercise the check-and-balance function granted you by the Constitution and to reject this confirmation.

Thank you.

CHAIRMAN ROBERTI: Thank you, very much, Mr. Rankin.

Any questions?

The next witness is Mr. Jerry Cremins, Executive Secretary for the State Building and Construction Trades Council of California.

MR. CREMINS: Mr. Chairman, Members of the Committee, thank you for allowing me to come before you this

morning.

My name is Jerry Cremins. I am the President of the California State Building and Construction Trades Council, AFLCIO.

We represent the fifteen Building Trades International that comprise the Building Trades Department in National AFLCIO. The building tradesmen of California have much at stake in the person who serves as State Treasurer.

The Office of Treasurer in California is unique because it's given broad discretion over managing the state's monies and acts as the policymaking authority for state and local finance.

The Treasurer is also given direct responsibility on which construction projects will qualify for funding through various financing authorities.

In 1987, the Treasurer's Office approved the construction of 4,000 projects through the California Housing Finance Agency, issuing a total of $606 million through this one agency alone. There are currently seven other authorities like that one which allocated $2.7 billion for the fiscal year of 1987.

The power of the Treasurer is likely to grow further because of the Gann spending limit coupled with the growing needs for public infrastructure has increased demand for bond financing.

Under the leadership of Jesse Unruh, the Office of State Treasurer developed and implemented many policies that were beneficial to the working men and women of California. One of the most notable was his Council for Institutional Investors, whose purpose was to pool pension funds to give them greater leverage on Wall Street and in corporate takeovers.

Mr. Unruh also met with building trades representatives on several occasions to discuss the applicability of prevailing wages on bond financed projects.

We are now asked to accept a candidate for the post of State Treasurer who has never held a state or local office in California, and has no or little financial or banking experience from which we can judge his qualifications as State Treasurer.

The only record we can judge Mr. Lungren is his voting record in Congress, and would I direct myself exclusively to labor and social issues in that area.

After reviewing Mr. Lungren's voting record from various labor organizations, we found that AFSCME rated him at 8 percent, 4 right and 45 wrong. The Service Employees International rated him at 5 percent, 1 right and 19 wrong. The United Food and Commercial Workers rated him at 1 percent, one right and 72 wrong. AFLCIO rated him at 5 percent, putting him at a tie for the tenth worst voting record in

Congress.

Here are some significant examples of Mr. Lungren's anti-labor record. A no vote on a 1985 amendment that required farm employing ten or more workers to provide sanitation facilities in order to be eligible for Federal Farm monies.

He voted yes for a 1983 amendment that would eliminate health and safety care for the unemployed.

Voted yes on a 1979 amendment to cut $10.3 million in job site inspection and enforcement activity funds from an already understaffed Federal OSHA program, which seems to be consistent with the Governor's feelings on CAL OSHA.

But most alarming to building tradesmen is Mr. Lungren's past voting record on Federal Davis-Bacon Act. The act requires the payment of local prevailing wages to workers on federally-financed construction projects. It assures local contractors who uphold community labor standards a fair chance to compete for government projects without being undercut by outside firms using cut-rate labor. It also protects the government from fly-by-night operators seeking to win federal contracts by paying wages too low to attract competent craftsmen.

Because they have been stopped in their efforts to gain outright repeal of the Davis-Bacon law, Mr. Lungren and other ultra-conservative members of Congress have tried to eliminate the law piecemeal by removing its coverage from

various types of government contracts.

Mr. Lungren has voted against Davis-Bacon on at least eight different occasions in the House of Representatives. In each and every instance, Mr. Lungren has sided with a small minority in an attempt to repeal the Act, losing by at least 120 votes on every occasion.

Mr. Lungren in his five terms in Congress has not yet voted in support of the Act, even on occasions where there was bipartisan support.

Based on Mr. Lungren's Congressional voting record, we have keep and understandable questions as to whether or not he will seek vigorous enforcement of the state's prevailing wage laws.

Two of the state's larger bond issues, the California Housing Finance Agency and the Industrial Development and Finance Acts, specifically require the payment of prevailing wages. There is controversy, which we believe is unwarranted, on the applicability of prevailing wages on other projects funded with bond monies. Therefore, the position the Treasurer takes on this issue is of great importance to building tradesmen.

We believe Representative Lungren has shown a lack of commitment to prevailing wage laws, and if confirmed in the position of State Treasurer would thwart the will of the Legislature and administratively strangle state public works

laws.

We believe that Mr. Lungren's voting record shows a Member of Congress who is not just a conservative but far to the right of the political mainstream of California and in direct conflict with the needs of the construction workers of this state.

Mr. Lungren's record, I should point out, in the views of labor, is worse than any Representative from Mississippi, Alabama, Georgia and Florida.

It's our belief, and we ask you not to confirm Mr. Lungren.

Thank you very much.

CHAIRMAN ROBERTI: Thank you, Mr. Cremins.

Any questions?

Seeing none, the next witness will be -- Mr. Low is not here -- Maura Kealey, Legislative Director of California State Council of Service Employees.

MS. KEALEY: Thank you very much, Mr. Chairman.

I'm Maura Kealey. I'm the Legislative Director for Service Employees International Union of California.

I want to start out by saying that when Mr. Lungren's appointment was first announced, our members -- we have 250,000 members in the State of California -- did not immediately bombard our office and say we have to oppose this man.

The reason was very simple. We knew very little about the Office of Treasurer. We knew very little about Mr. Lungren. I think that the Legislature, and in particular the research done by the Senate, has done us all a great service in that we now know enough about the Office of the Treasurer and enough about Mr. Lungren that our members are unanimously and very vociferously asking us and asking you not to confirm him to this important office.

Our quarter of a million members in California do every kind of service work imaginable. About half are public sector employees. The others are in health care. They provide services for seniors. They work in building service, and our members are located from San Diego up to the Oregon border and across the state.

Now, those in the public sector have a particular -- who are members of the Public Employment Retirement System have a particular interest in the Office of the Treasurer because that person sits ex officio on the Board of Administration.

The PERS Board controls the pension fund of about $43 billion. The Treasurer also sits on the STRS, the State Teachers Retirement System, Board as well. We don't have the pleasure of representing any teachers. In the role of one of the thirteen members of the PERS Board, the Treasurer will have an enormous importance in safeguarding the money that

will make up our members' retirement, in administering the plans that provide health benefits to them, and most importantly to all of us in the state, not just the public employees, in guiding and directing and having a very, very influential role in how the PERS funds are investigated.

The previous speaker testified and spoke to the role that Mr. Unruh played in forming the Council of Institutional Investors, in taking an assertive and aggressive position in making sure that with all the changes that are going on in the current financial markets in this country, that public pension funds, and in particular California public pension funds, would not be disadvantaged but would benefit to the extent that everybody else could benefit.

Now it is just that kind of advocacy, that kind of positive use of government office, that we believe the California Treasurer's Office is supposed to exercise. It's just that kind of positive advocacy which we believe Mr. Lungren's record shows that he would not be inclined to exercise.

I want to say that in two respects. The actual votes on issues that have been gone through show overwhelmingly a difference of philosophy from most Californians and how most Californians would want to see discretion exercised. They also show very clearly a disagreement with the philosophy that government should be

activist, that there is a social responsibility to improve economic and social conditions through use of the goverment office. That is exactly where we would be in a weak position with Mr. Lungren as Treasurer as compared with the previous Treasurer.

In our members view, if you go down, at this point one might almost call it a litany of voting records, it's bad enough that Mr. Lungren has consistently opposed environmental protections laws because in California where most people come and stay and chose to live in California because of the environment, if you don't have clean water, if you don't have pollution control, if you don't take care of your environment, then you're really saying that you're not going to end up with why we came here. So, that's bad enough.

Then if you look at Mr. Lungren's record on schools -- everyone in California is well-aware today of how important the educational system is and what we're trying to put into our California educational system.

I don't think there could be a member, Republican or Democrat of the California Legislature, who would have Mr. Lungren's voting record on schools because we know here in this state this is a priority.

If you go to programs for seniors and look at the votes against meals for the elderly, look at the votes against catastrophic health insurance, and look at what we know in

California to be true today that we have a crisis in health care, and we have a crisis in proper programs for seniors, again, I don't think there is anyone in the California Legislature who could be that far off center.

Our conclusion from all of this is that it is not just in our special relationship as public employees that we have an interest, and it's not just that as members of the working people of California that we have an interest in somebody whose voting record is not so definitively anti-labor, but just as California citizens, we all have an interest in having that office exercised in a different manner than it would be exercised by Mr. Lungren, based again on his voting record and his philosophy of government it expresses, which is the only record we have to evaluate him on.

Therefore, our members ask you not to confirm Mr. Lungren. We believe that he could not have been elected, could not be elected, and should not be appointed to this very important position.

Thank you very much.

CHAIRMAN ROBERTI: Thank you, Ms. Kealey.

A question by Senator Craven .

SENATOR CRAVEN: Ms. Kealy, first of all I want to thank you for your blatant honesty at the outset of your comment.

So many people act like they've known all about the

Treasurer all these many years. I find that very, very difficult to understand because generally speaking I think it's kind of akin to being the Vice President. Everybody knows you have one, but specifically what he does no one is quite sure.

You said that the membership did not know, and then they took time to investigate and equip themselves with certain knowledge, and I think that's a very, very logical and intelligent approach to the problem.

It is my understanding, and I think that public comment will bear this out, Mr. Lungren has said that he admired the job that was done by the prior occupant of that office.

I also got the impression yesterday, from statements made by the Congressman, that somebody asked him some rather specific questions, and he said, I wouldn't begin to do anything unless I gathered my staff together and asked them what I they thought.

I got the impression that he was saying that if it isn't broken, we're not going to fix it.

Do you see any reason why, based on the success of the operation of that office, Mr. Lungren would chose to move in a direction which would be somewhat akin to devastating?

MS. KEALEY: Our view of that office is that the challenges that are confronted day-to-day, week-to-week,

month-to-month are the challenges that the incumbent would respond. I think, unfortunately, Mr. Lungren's entire record shows that faced with how one would allocate bond financing, for instance, between housing projects and roads, or faced with how one might innovatively go after the state's policy of divestature, or faced with any other number of the broad, broad array of discretionary choices that the man and the staff appointed by the man would simply move in a different direction from the previous holder of the office.

SENATOR CRAVEN: I do not know how many appointees the Treasurer has, frankly, but I would think the cadre of persons within that Department would have a certain constancy which would, I suppose, bring with it or include a certain expertise garnered over a period of years in that function.

I don't think it's logical to suppose that he would do away with all of the people who have worked tirelessly and happily in that job.

MS. KEALEY: Just one observation in response to that. I have also sat in on the hearings in both the Assembly and this morning, and it's clear that the nominee is clearly someone with very definite opinions and somebody who believes that they know what is right and would pursue what they wanted to pursue very vigorously.

I think that in the context of running such a powerful Office of Treasurer, you would not have to replace

some of the people down the line to give that office your own stamp and to control and direct it.

The discussion is just so enormous. Very little of what the Treasurer does is purely ministerial.

SENATOR CRAVEN: You would never hate him because he has definite opinions certainly?

MS. KEALEY: It's what those opinions are that is the problem. We're not talking here about hate. We're talking about the --

SENATOR CRAVEN: In other words, when it moves in the direction of him, it's all right to have that opinion. If he moved in a direction against you, that would be wrong. That seems to be somewhat less than equity.

MS. KEALEY: Senator, I believe I tried to start out by saying that because we have such a broad and diverse membership and because we have such a broad and diverse voting record to look at, that it's the connection between the numbers of issues that are critical to our members, the protection of the environment.

SENATOR CRAVEN: I understand that. I understand that you represent the special interests, too.

MS. KEALEY: Well, our members are special to us.

SENATOR CRAVEN: Of course they are. They should be.

MS. KEALEY: A quarter of a million members in every sector of the service economy I think are fairly

representative of California.

SENATOR CRAVEN: I don't question that at all, Ms. Kealey. I think they are very representative. I've been supportive of them for a long, long time.

However, I think that sometimes in some of this testimony we become very presumptive. I think that Mr. Lungren has a grasp of what the situation of the Treasurer's Office is, but I think he would be the first to admit that the nuances of that job perhaps he has not yet been exposed to.

I think you have to wait until he has an opportunity to see the broad, the full picture before you can say he's going to do thus and so.

Maybe that requires a question of faith. It's a faith that I have beyond question. Perhaps you're a little too mystic in your attitude in that you're not willing to believe until you see. You won't ever see if you don't give him the chance.

MS. KEALEY: My only response would be to say that based on the qualifications of the candidate for office, and the voting record and pattern of the attitude of the fundamental attitude that the role that government should play, we would prefer to wait and see with a candidate that we feel is much more in the center of California politics.

Thank you.

CHAIRMAN ROBERTI: You're not off the hook yet, Ms.

Kealey.

Senator Ellis.

SENATOR CRAVEN: You're popular.

SENATOR ELLIS: You made the statement that you thought that if Congressman Lungren were on the ballot for Treasurer he would be defeated. Is that correct?

MS. KEALEY: Yes, I did.

I said could not be elected.

SENATOR ELLIS: It seems to me if I were in your position, I would like to have somebody appointed that I could defeat because we have only less than three years on this term.

So, he could sit there for two and a half years, and you could bring in your candidate and have the Treasurer spot for you.

MS. KEALEY: Service Employees is not a party, a political party. Our members, in fact, belong to not only --

SENATOR ELLIS: Maybe you would pick a nice Republican to replace --

MS. KEALEY: Our members are not only Democrats and Republicans, but belong to many other parties as well.

Our interest in this is seeing from day one that the person in that office exercises the powers in conformity with what we believe to be the interest of California.

SENATOR ELLIS: If the Governor had appointed

somebody else who would be more acceptable in your eyes, I'm sure that person would be more acceptable to the people as a whole, and therefore, would surely be re-elected and still not carry your philosophy.

MS. KEALEY: You could give us a chance to find out because, frankly, some of the Senators who were mentioned also earlier on who have been in California all these years who we have seen vote on school issues, on health care issues, on all environmental issue, we might have a chance to see then if that person has greater longevity.

SENATOR ELLIS: Thank you.

CHAIRMAN ROBERTI: Thank you, again.

The next witness is Mr. Andy Baron, Legislative and Political Director of the International Union of American Federation of State, County and Municipal Employees.

MR. BARON: Mr. President and Members. I'm Andy Baron with American Federation of State, County and Municipal Employees, or AFSCME.

You know the slogan of AFSCME is in the public service. Again, we represent a very wide range of jurisdictions throughout the country and here in California.

We take that very seriously in the public service. We believe that that should be to the public across the board, especially those in need.

We believe it's quite appropriate when making a

decision on whether to support a nominee for a public office, particularly what has become a very prominent statewide office with impact on many different areas, to look at how the nominee feels about the role that government should play in society.

In this instance this has already previously been mentioned, and our national voting record over the Congressman's several years in service, it is only a single digit rating. We believe that it's just a total different outlook that the nominee shows as opposed to our union on that role that government should play.

We believe his votes have shown more of a, I would say, kind of a survival-of-the-fittest attitude, an attitude that government is certainly not our brothers or sisters keeper, and we certainly feel otherwise.

It's certainly -- again, when you look at the PERS issue, it certainly makes us uneasy in terms of how he will look after our members' needs on PERS.

Really, when you go up and down the record, it's not just a matter -- sure, on any individual issue, there could be disagreements. When you start looking at votes dealing with health care, unemployed, job creation, school lunch programs, food stamps programs, pay equity, relations with South Africa, fair housing, voting rights, legal services, reparation issues, gay rights, meals for older Americans, child

nutrition, Social Security, community health services, homeless, AIDS, when you go across the board, all the way down the line, we just think that there has been a clear, clear attitude shown in terms of what government is to do for all of us.

It's an attitude that is diametrically opposed to what my union has proudly stood for.

I think it is also fair to say as Tom Rankin referred to, we also have not made a habit of coming in and actively opposing nominees. This, in our case, has really been the second time I have come before you. I was here before you on Betty Cordova who I also felt showed that kind of attitude.

Again, not looking at any one vote but the whole spectrum of the votes, affecting the whole spectrum of these people, we really would feel that in this case it does not make sense to reward such a record with this kind of major office, and we urge you to oppose the nomination.

CHAIRMAN ROBERTI: Thank you, Mr. Baron.

The next witness is -- any questions?

SENATOR CRAVEN: May I ask just one?

MR. BARON: I was worried that I wasn't going to be popular, Senator. I feel better now.

SENATOR CRAVEN: You mentioned the voting record and the fact that in the eyes of some of these organizations that

the Congressman is not what you might call their favorite son.

Do you recognize that they are other organizations that represent millions of people who felt he has done an outstanding job?

MR. BARON: I would imagine -- there may very well be.

I'm here speaking on behalf of my union -- and I guess what my union has prided itself is that let alone looking after obviously the specific needs of its members, that my union has really prided itself upon, the areas of civil rights and areas of social policy that we have really reached out to help a wide -- especially to help those in need and give equal rights to all.

I'm not here speaking on behalf of all organizations. I'm here speaking on behalf of mine. It's not just that it's a matter to us that it is kind of some here and some there.

It's such a definite, such an extreme record. You're talking about instances of 400 to 25 or 300 to 30, being in that kind of a small group. I guess if it was just a matter of one or two votes, it would be one thing. When you look at the span, I mean it really indicates a view of society. It really does indicate a clear view of role government should play on society.

The Treasurer's Office, when you look at the many

boards and also just the fact of given the opportunity to be able to speak from a major statewide office, really is a position of major impact.

We just feel that based on what has gone on consistently over several years we would be opposed.

SENATOR CRAVEN: Mr. Baron, you obviously have the philosophy that the Treasurer's Office basically is a perhaps not so veiled social services position. Is that right?

MR. BARON: I believe that on one hand whether it's PERS or dealing with mortgages, or other areas, on one hand there are many specific boards that deal with that wide area.

On the other hand, you do have an office, a public office where that occupant of that office does have a major opportunity to speak out and to -- just from the influence and power of that office have very major impact on many issues.

We don't feel that to reward such a record across the board with that kind of an office, we just are opposed to that.

SENATOR CRAVEN: Very well. Thank you.

CHAIRMAN ROBERTI: Thank you again, Mr. Baron.

Next is Mr. James Gordon, Director of the Governmental Relations District 9 of the Communication Workers of America.

MR. GORDON: Good morning, Senators.

My name is Jim Gordon. I'm with the Communication

Workers of America, District 9, California.

We also oppose confirmation of Daniel Lungren as State Treasurer. As the representative of 65,000 members in California including public workers in education and health service, we are concerned about Mr. Lungren's record towards working people as demonstrated by his voting record against worker issues in Congress.

If confirmed, he would sit on the PERS Board and the Department of Administration's Health and Retirement Boards. The current administrations before looked to the retirement funds of state workers for funds to use in the budget. We are concerned that as State Treasurer Mr. Lungren would join in these efforts again and look to rob our workers' retirement funds to balance the budget.

We urge your no vote on this confirmation.

CHAIRMAN ROBERTI: Thank you, Mr. Gordon.

Any questions?

Mr.'s Don Watson and Nate DiViasi, representatives of the International Longshore Workers Union.

MR. WATSON: My name is Don Watson, and I'm the Secretary/Treasurer of Northern California District Council of the International Longshoremen and Warehousemen's Union.

The representative of the Southern California District Council, Nate DiViasi, could not be here, but I'm speaking also on the behalf and expressing the sentiments of

the Southern California District Council.

We represent the harbor areas all the way from Eureka and San Diego, and the warehousemen and allied workers. We're an independent union, and we're not affiliated with the AFLCIO, but we feel the same way as the other unions here about the nomination.

I would like to say that although the Southern California District Council has jurisdiction over the area that Congressman Lungren has been serving and know a little bit more about the record, we in Northern California did not know about the record of Representative Lungren, but the -- when the issue came up before our Council as to what to do about this, the motion that was made to oppose his nomination was made by a woman who is a member of our Council but who spent time in a concentration camp in World War II.

She went into the concentration camp with her little son, three-year-old son. Her husband was a member of the ILW, a longshoreman, a San Francisco longshoreman who served in the Pacific with the United States forces.

She stayed in Mansinower. She pointed out to us the kind of record that Senator Lungren had towards Japanese Americans. Here it is 45 years later that the terrible incident that occurred in World War II, and we find that Representative Lungren has opposed even modest reparations for the people going through this kind of situation.

We in the ILW are not interested strictly in labor issues but in civil liberties and civil rights. We're concerned about his record in those areas, too.

Our Washington representative has also compiled a score card on Representative Lungren. There have been a lot of score cards from a lot of labor unions. We have ours.

From 1981 to 1986, the last two years have not been compiled yet, Representative Lungren voted right on 2 issues and wrong on 31. Our representatives have tracked the records of Legislators in Hawaii, Alaska, Washington, Oregon and California. This is about the worst record we can find in all those states.

I could go down the line like all the issues, job safety, plant closures, programs for unemployed, health insurance for the elderly, voting rights, school lunches, tax cuts for the wealthy, and all these things are just so overwhelming. This leads us to the conclusion that he's by conviction he's anti-union and opposed to many of the aspirations of working people and their families.

We do not like this kind of record that a person of this kind of record would be welding such a major power as a State Treasurer. We want a person in the State Treasurer who is sensitive to the needs of the working people in this state.

ILW urges a no vote on the Senate confirmation of

Representative Lungren.

CHAIRMAN ROBERTI: Thank you, Mr. Watson.

We have three more witnesses in this section.

Ms. Lillian Rabinowitz, Founding Member of the Over-60 Clinic in Berkeley, and Community Adult Day Health Care Services in Oakland.

MS. RABINOWITZ: Thank you, Mr. Roberti and other Members of this panel.

I very much appreciate this opportunity to let you know what I perceive as the concerns of seniors about issues raised in Mr. Lungren's record.

I do want to tell him that I'm not here to express concern about his skills in banking or his personal integrity. I want the record to speak for itself.

I am, in addition to the qualifications mentioned on your sheet, a member of the National Board of the Gray Panthers and of their health task force.

I'm very glad to speak in the presence of Mr. Mello who made possible the help of Adult Day Health Care, and I want pay tribute to him. Thank you, Mr. Mello.

There is in entity called the National Council of Senior Citizens which has representation from national organizations like the Older Women's League, AAARP, the National Council on Aging, and the National Senior Citizen's Law Center. This Council evaluates the voting records of

Members of Congress as their votes relate to issues that are relevant to their interests.

I have studied this list with a great deal of interest and was really amazed to learn how consistently Mr. Lungren's votes reflected a lack of, I would say, information or compassion for what the situation of older people in the United States now is.

For the the most part I will cite certain cases that relate to the economic concerns of elders. In 1983, he voted against a measure to increase the payroll tax to fund the long-term Social Security deficit. At that time, he also voted to increase the age of Social Security beneficiaries from 65 to 67, a position in opposition to that of the National Council of Senior Citizens.

In many western countries in the world, as well as in the Eastern bloc, retirement ages are earlier. Many minority men never live to enjoy their Social Security entitlements. So to up the age is a brutal way of relating to older people.

Concerning legal services, House of Representatives bill 4169, he supported efforts to decrease or eliminate funds for the Legal Services Corporation for representation for the poor.

He supported similar efforts in 1984 and 1987. Anybody who knows that many such cases relate to various

entitlements and pension rights for older people, poor individuals have little chance for a judgment in their favor against powerful corporations or indifferent bureaucrats.

This is a low blow to take away the advocacy of Legal Services Corporation lawyers for older people.

Concerning redress against injustice, in the matter of HR-442, in 1987, he actually led the floor fight to eliminate individual reparations for Americans of Japanese descent who spend World War II years behind our American barbed wire, our American Auschwitz camps, you might say.

These people lost their economic base during thos miserable years and had to struggle to regain their livelihood when they were released from the camps, and they were put there through no fault of their own.

In the matter of HR-3875 Mr. Lungren supported including Social Security COLA increases as income when calculating rent on assisted housing. This is a mean spirited position indeed. Most people living in such housing are very poor and have to struggle to make ends meet.

Mr. Lungren even voted against President Reagan's catastrophic health insurance bill, an attempt to patch up one of the gapping holes in the security net when illness can impoverish old people through no fault of their own.

Finally, let me briefly turn to the issue of homelessness. Anyone who has been a senior advocate knows that

when low cost congregate housing for seniors has been constructed, the waiting list to get such quarters is very long indeed. Anyone having to deal with making the choices of who will go in feels heart broken.

Yet, Mr. Lungren voted for an amendment to HUD's Independent Agencies Appropriations Act for federal year 1986 to cut in half the appropriations level for new public housing and construction.

Now, I would like to turn to one of the specific powers that the Treasurer would have that would impact heavily on an interest of my own. Concerning the Treasurer's power in just one area, I would like to express my anxiety in the case of the Treasurer's role as the Chairperson of the Annual California Necessities Index which determines COLA's for health and welfare programs through the Commission on State Finances.

I know about this very well because in our Community Adult Day Health Care in Oakland, we care mostly for people who are on MediCal, very, very poor people, and the rate of reimbursement from MediCal is very low. It was very, very difficult to get a COLA for this kind of reimbursement, and that would mean that it's awfully difficult for Community Adult Day Health Care Centers to stay open. I take that as a personal pain.

I recommend that you do not appoint -- approve of

Mr. Lungren's nomination.

Thank you very much.

CHAIRMAN ROBERTI: Any questions of Ms. Rabinowitz? There are none. Thank you very much.

Yes, Senator Petris.

SENATOR PETRIS: Since she's a constituent, I want the say welcome and thank you for taking the time.

Good to see you.

MS. RABINOWITZ: I couldn't have done otherwise.

CHAIRMAN ROBERTI: George Sandy, President of Congress of California Seniors.

MR. SANDY: My name is George Sandy. I'm President of the Congress of California Seniors, which is an affiliate of the National Council of Senior Citizens.

Personally, I have been a member of the California Senior Legislature and have been active in senior activities for fifteen or sixteen years since I retired at 65.

Ms. Rabinowitz took most of my speech. I'll give you very little extra. I endorse what she said.

The office that is being asked to fill, I will confess that I did not pay much attention to it either until it became necessary to look into it and study it.

Mr. Lungren's record as far as the National Council of Senior Citizens is concerned, and I have it all here 79 votes, which I will not bother reading to you, but Mr.

Lungren's record is he managed to vote with the National Council of Seniors two times out of 79 votes, and we find that this is not something that is in the best interest of seniors.

In speaking here today, most seniors my age are nostalgic. I do not wish to be nostalgic. I look to the future. For example, there are people now in Congress who are advocating that Social Security start at 70 and that MediCare start at 70. They have a rationale for that.

The rationale is that people like me who live to be 81 live too long and we cheat the security system. But it's not aimed at me. It's aimed at all the young people, the 45 to 50-year olds and younger. That's who these new laws are aimed at, to take effect at aroung turn of the century.

Mr. Lungren's record on senior issues is such that it shows a lack of understanding and compassion of the needs of the elderly.

I'm partisan. I don't make any bones about being partisan. My organization is non-partisan, but I'm partisan on behalf of seniors. I am partisan politically.

I believe that it's wrong and it would be wrong for me to stand here and be in favor of putting someone another step up the political ladder on the way to being Governor, perhaps, or Senator, or as one famous old radio personality said, parish forbid, President of the United States.

I tremble for the future of my children and my grandchildren thinking of this kind of noncompassionate, inhumane approach to the needs of the people of our nation; and therefore, I urge that you vote no.

I would like to finish on a personal note. First of all I want to say thank you to Senator Petris for introducing before this Committee a year ago a resolution commending me on my activities and the activity of my organization at the time of my 80th birthday. I want to thank the Committee and David Roberti, whose name is on the resolution, for that very nice present I received from you which hangs in an honored place on my living room wall.

Finally, I want to do as I did on my 80th birthday celebration and invite all of you in 1997 to attend my 90th.

Thank you.

CHAIRMAN ROBERTI: I'm sure we will. Thank you very much.

SENATOR PETRIS: I might point out that Mr. Sandy is also from my area.

I'm happy to see you today. Thank you.

CHAIRMAN ROBERTI: Frank McPeak, Columnist on Senior Issues, Senior Spectrum Newspaper.

MR. MCPEAK: My name is Frank McPeak. Right from the start I would like to explain that I'm not here in any politically partisan way.

I'm neither a registered Democrat nor registered Republican. I'm one of those animals you call an Independent. I voted for Governor Deukmejian, and I also voted for Lieutenant Governor McCarthy. Like our good Congressman, I have knocked on doors and used the telephone on behalf of both Republican candidates and Democratic candidates. I've tried to select the best man for the particular job.

I've been in the newspaper business for forty years. I'm now writing a column on senior issues. I have an interest in the whole subject matter of senior matters.

On another aspect, I have been on the Board of Governors of Area IV for two terms, that is a group that handles older American funds for Sacramento County and six other adjacent counties. I'm now on the advisory committee to that particular area body.

I've been a member of and still am a member of the Sacramento County Commission on Aging Acknowledging. I've been Chairman of it twice.

I'm a member of the Board of the Council of Sacramento Senior Organizations. I'm also the Chair of the Senior Golfers Association for the Sacramento area. I've been dealing with seniors over a period of time.

When I first became aware of this particular issue, I must confess like some of the speakers before me that I

neither knew the Congressman, I keep track of my own Congressman, but I don't reach down to the southern areas, and like others, I did not know much about the job of the State Treasurer.

I thought it would be a good subject to write about. So I started to look at it. I would have to say this, that in speaking to people that know the Congressman, there was an unanimity of opinion that he's intelligent, he's articulate, he's bright and above all he's a hard working individual.

There are a lot of good things to be said in his favor. He's also been a Congressman for ten years. He must have satisfied somebody in his own district to get elected again and again. In listening here today, I sort of have sympathy for a guy who has been around for ten years working and doing a job representing the public, and then listening to this litany of negatives, he probably must have some feelings of frustration about it.

Having found the good points, I then went to the record, and I'm approaching this in a narrow focus. I'm talking about this from the standpoint of seniors. I hoped to find that he had a great record in terms of seniors. He would be a hell of a guy to have on your side. I would like to have him with us in terms of seniorhood.

Unfortunately, when I looked at the record, and I

don't want to go through the whole litany again, but those big numbers that stand out in terms of this National Council of Senior Citizens who keeps the score, out of 79 opportunities, major opportunities to vote on major legislation that effects seniors, he only voted with them twice, and voted wrong the other times. If you break it down to percentages, it's about three-tenths of one percent.

It's an unfortunate record in terms of seniors. When you put it all together -- and I would also say this, in terms of myself and I think for many other seniors, I don't think you insist that a representative support every senior issue that comes by. That would be a little bit unreasonable. You might settle for 50 percent of the time with somebody who now and then came over and saw fit to support seniors.

But in this instance, the Congressman has been right down the line, 2 out of 79 opportunities. If I did my arithmetic right that is about three-tenths of one percent.

He seems for one reason for another to be anti-senior. For that reason, speaking from the standpoint as a senior, I would simply have to urge that he not be voted in for this particular office.

There is one other thing that should be said in all fairness to everybody. You can focus in on a particular individual from one area. That's not the total individual.

It's your job, you people here are going to make the final decision for the Senate, it's your job to put these pieces together and come out with the whole Congressman in terms of his qualifications.

He has supported somebody obviously. He has not been sitting in Washington doing nothing for all these years. I also looked at that aspect of it for some information here. When you compare the three-tenths of one percent support for senior issues; he got a mark of 87 percent from the U.S. Chamber of Commerce; he got 86 percent from the National Association of Manufacturers; he got 81 percent from the American Farm Bureau Federation. So he has not been idle.

You have to put all the pieces together and decide whether he should be recommended or not recommended for the job of Treasurer.

Thank you.

CHAIRMAN ROBERTI: Mr. McPeak, what concerns us a little bit is not so much the Congressman's voting record as such but his voting record as it relates to his duties that he would have as the Treasurer. Maybe you could comment on this a little bit.

I would like the Congressman to, of course, rebut which will be right afterwards.

He sits on the Commission on State Finance which sets the California Necessities Index upon which so many

cost-of-living indexes are based as the prior speaker had indicated. As far as housing, which is a major issue for seniors as well as other people on fixed incomes, he will be sitting on the Mortgage, Bonds and Tax Credit Allocation Committee which has tremendous discretionary powers on the kinds of housing that receives assistance, if any.

He will be sitting on the California Debt Allocation Committee which sets priorities on bonding in our state. This is a concern to many of us.

Do your senior groups share it or is it just the concern over the Congressman's voting record or his voting record as it relates to the duties that he is going to have.

MR. MCPEAK: It relates to his basic attitude.

With 79 opportunities to address his views and his attitudes and sense of values in so far as seniors are concerned, they appear to be nil. They're not very high on his list of priorities at all.

So, barring some abrupt change, and I don't know why the change would take place at his age level, et cetera. Basic attitudes don't change. He's going to carry those into the job of Treasurer one would suspect based on the record.

As a senior, I would have certain anxieties as to what he might do given the power. In the House of representatives he's one vote out of 400, so his particular dedication to a point of view is matched by others. He hasn't

really been in a leadership position.

As the Treasurer, he is going to have a very important office, and he's going to chair, if my recollection is right, three committees, he's going to co-chair another and have a vote on about nine others, an important voice. He's moving into a position of leadership. If he takes those attitudes concerning seniors with it, seniors are going to have a dismal time.

Does that answer your question?

CHAIRMAN ROBERTI: Yes. Thank you very much.

Any questions?

Seeing none, Congressman Lungren, you may conclude, and after the Congressman's conclusion, we will break for lunch for an hour and a half.

Mr. Ralph Morrell has indicated he wants to testify and has to leave, so I took the liberty of changing the agenda a bit to accommodate Mr. Morrell so he can be the first up.

I have no idea what Mr. Morrell is going to say. I have no idea if he is hostile to the Congressman or hostile to me today. Nevertheless, to accommodate him, we'll take him up at that point.

Congressman.

CONGRESSMAN LUNGREN: Thank you very much, Mr. Chairman.

I had prepared to talk about PERS and STRS

investment and retirement issues, but I guess we're not going to do that even those that was one of the suggested topics here.

CHAIRMAN ROBERTI: Excuse me. That's not -- that is --

CONGRESSMAN LUNGREN: That was part of today. Four of the speakers were supposed to speak on it, but they didn't have time.

SENATOR PETRIS: I was going to ask a question. I don't know, but I'll yield to your preference.

CHAIRMAN ROBERTI: Why don't you ask questions and let the Congressman have an uninterrupted rebuttal.

SENATOR PETRIS: Is that better?

CONGRESSMAN LUNGREN: Go right ahead.

SENATOR PETRIS: Okay. I think those are important areas that need to be explored.

There is also a prevailing wage area that is not directly, it's not PERS and STRS, but it does come into other aspects.

A growing concern among the people in the trade union movement nationally, and especially in California, is the prevailing wage. There was a mention of your votes on the Bacon-Davis Act and your vote opposite the labor unions view point.

My first question is how do you feel about the

concept of a prevailing wage standard written into our laws? Number one, do you support them or oppose them; and number two, do you think they ought to be changed in any way?

CONGRESSMAN LUNGREN: Senator, I believe that the prevailing wage laws that were voted into effect on the federal level were appropriate. They were to serve a specific purpose, and that purpose has been served.

But currently the prevailing wage standard needs to be reformed on the federal level. That is the conclusion from the GAO report, the Government Accounting Office, which is a non-partisan arm, kind of a quasi-arm of both the Congress of the United States and the Executive Branch the United States. The problem has been a refusal on the part of the committees that have responsibility in the House of Representatives to even consider any reforms consistent with the GAO report. Therefore, the only opportunity we have to effect that at all is single votes on single issues and single projects or single programs.

I have voted for those reforms in those particular regards because I think we ought to, as a Congress, take a serious look at whether or not the prevailing wage needs to be changed. We've had it on a number of occasions on the Federal level, and I have voted in that manner.

SENATOR PETRIS: In California we have the same kind of statutes. What kinds of reforms would you recommend or

support in California? I don't know what the reforms are nationally that have been discussed.

CONGRESSMAN LUNGREN: First of all, obviously, as it has been pointed out, I would not be in the Legislative Branch. I'll be in the Executive Branch. I'll bow to whatever the Legislative Branch decides in terms of statute as to change or reforms that may be appropriate with respect to prevailing wage laws. I have not studied the prevailing wage laws in California.

SENATOR PETRIS: The reason I bring it up, and I don't expect you to have studied -- I think you've studied a lot more than I would have expected.

You've got a tremendous grasp on the office and its duties and functions and so forth.

The problem in California that has been brewing has to do with how you define certain publicly funded projects to determine whether or not they come under the prevailing wage requirement.

There are some out there who believe that if a public agency makes a contract with a private company and that private company performs the job, that does not come under prevailing wages. They're trying to narrow it to areas where public employees are doing the work rather than a private contractor.

Those who are opposed to the whole concept are

trying to narrow its application. Some of those issues will probably be determined in the courts, they haven't been yet, and some of them have.

So, it has a bearing on the granting and the allocating of bond money. If it's a revenue bond, they take one view; and if it's one of the private activity bonds, they take another view.

I guess the question would be given the present state of the law, which you will read and learn, would your inclination be to give an interpretation that favors the use of the prevailing wage or would you discourage its use.

CONGRESSMAN LUNGREN: Senator, I just cannot give you an honest answer on that. What I would say is that my view of the prevailing wage on the federal level has been in large part formed by the GAO study, which was an independent study which led to certain conclusions, that seemed to me to make some sense.

I have no idea whether there is a report from an objective group on the state level. I would certainly look at that. I would counsel with the people in the Office of the State Treasurer who have been working on this before.

As I tried to tell you in prior testimony, I think that it is the height of stupidity for anybody to go into an office like that and ignore the fact that you have a lot of talented people in the office, who I might add happen to be

state employees.

I seem to be getting a rap for my view on public employees. I think if you would talk to public employees who live in my district, public employees that I deal with or federal employees, you would find out that I'm one of their advocate not one of their adversaries.

I happen to rely on people who work for the government because I think in large measure their good people, qualified people, they are dedicated people, and the way you get dedicated service is you give them a sense of responsibility by listening to what they have to say and weighing it with a certain amount of confidence.

SENATOR PETRIS: Okay. I'm trying to get a handle on what your approach would be. We don't have all the information that we need, obviously.

If I touch on a area that you have not had a chance to check it, I'll just pull back.

Given that there is a prevailing wage statute now in California, would you carry it out and enforce it --

CONGRESSMAN LUNGREN: Absolutely.

SENATOR PETRIS: -- to the extent that your office is involved in it?

CONGRESSMAN LUNGREN: Absolutely.

SENATOR PETRIS: Do you have an understanding as to whether a prevailing wage now applies in California to all

publicly funded projects.

CONGRESSMAN LUNGREN: No, I don't. I just heard what you said on that. You suggested there was some confusion, court cases and so forth.

SENATOR PETRIS: Okay.

We have a statute called the California Industrial Development Financing Advisory Commission. The Treasurer would be involved in that. One of the factors that the statute requires them to consider in making a decision on a particular proposal is public benefit.

Are you familiar with that.

CONGRESSMAN LUNGREN: Yes, sir.

SENATOR PETRIS: Have you had an opportunity to look into that.

CONGRESSMAN LUNGREN: Yes, sir.

SENATOR PETRIS: Do you think that is a good --

CONGRESSMAN LUNGREN: Absolutely.

What I tried to explain yesterday is that when we grant the right for certain non-governmental entities to pursue in the finance market funding by virtue of tax-exempt bonds, what we are doing is giving them a leg up on everybody else out there. I think you only do that for compelling reasons.

We made a judgment, as I mentioned yesterday when we were talking with Senator Torres. We make a judgment --

either the judgment has been made by you men and women serving in the State Legislature with the concurrence of the Governor through statute to specifically say there are certain areas. You've given the large focus or large parameter within which we work, or there are some in which there is some discretion given to the Treasurer along with other people in private activity bonds.

It seems to me, at least my view of things, that a public purpose should be part and parcel of the project otherwise why should we be having the public in essence subsidize it and be giving that entity a competitive advantage over the other people in the area, the enterprise, the industry or the function they're dealing with.

That's my sense of why you even make a decision that private activity bonds ought to be brought to the market place in a tax-exempt status.

SENATOR PETRIS: Some people want to restrict that definition and others think it ought to be expanded. The public benefit provision ought to be enlarged upon.

Let me ask you about some suggestions that have been made to get your reaction. Some people feel that we ought to require that the recipients of the funds in a given project, which would be a contractor I suppose or employee, ought to be from the particular area where the project is going to be created and performed.

Is that too narrow a view.

CONGRESSMAN LUNGREN: Let me say off the top of my head that sounds good, but I've seen where that has run into problems in certain areas.

Let me give you a tangential experience. You look at what is happening down in Miami now in terms of the corruption in the police force there. The corruption in the police force basically deals with the largest number of people who were hired at a single point in time when they required all the employees to come from Miami.

It drew the possible group down. They had tremendous pressures. They dropped their standards. As a result, they brought on a lot of people, I think they hired somewhere in the neighborhood of a thousand, but I may be wrong on that, but a number of them. They weren't able to involve themselves in the proper training and oversight.

They found that a lot of people couldn't handle the job, and they have a massive problem of corruption in the City of Miami police force with detrimental effects to the people in the community.

If someone had asked me a few years ago, hypothetically, city like Miami, should you do it? I'd say absolutely. Good idea. We've got to do that. They have changed the law because they have found out.

So, right off the top of my head, it sounds like a

good idea, but I certainly would look to see how it worked out.

SENATOR PETRIS: I agree with you on that.

What about statewide application instead of local, that the people involved, the contractor would have to be a California resident, give some kind of preference?

CONGRESSMAN LUNGREN: I don't know. There are two thoughts in my mind. One is that it's a public enterprise getting support through the public, loosely defined as California citizens, but you have funds coming in from people who are not citizens and they reside here, so -- but by and large you're talking about it's a benefit being provided by Californians.

On the other hand, when we go to market, we don't restrict the bonds to sales just within the State of California.

SENATOR PETRIS: We want the money where we can get it.

CONGRESSMAN LUNGREN: You want it where you can get it, and I think you have to look much as you do in trade policy for possibility of retaliation by other entities.

So, if it looked like by virtue of the fact that we imposed that, other states would then restrict either our investment opportunities or our contractors, California contractors, from doing business in their state. It may very

well be a lose/lose situation.

SENATOR PETRIS: What if you had a local contractor unionized versus an out-of-state nonunion contractor? Would there be a difference in your reaction to that?

CONGRESSMAN LUNGREN: I would state to you exactly what I said before. I've got two sets of mind on that. One is that you're trying to benefit those in the state, and the other is what are the repercussions from that. I think those are the overriding factors.

SENATOR PETRIS: I guess on the one since we have the prevailing wage which tends to follow the union scale, you might say, it could be said that our public policy favors a union rate or scale as opposed to one that is below and if it comes from some other area the reason wouldn't be because you're from Nevada but because you don't follow the scale.

CONGRESSMAN LUNGREN: Wouldn't they have to follow the scale pursuant to the law?

SENATOR PETRIS: On the industrial one's, I'm not so sure, the private one's.

We've had a dispute here in California in the last few years on state highway projects. In my county, we ran into a disasterous situation where the contractor was brought in from out of state presumably in the hope of saving money because he was nonunion, and it turned out that they couldn't even finish up the project. They went broke, and it wound up

costing us a lot more.

How about looking for other factors within the public benefit. Let's say you had a couple of companies competing and one had the standard operation, and the other, equally good, but it also had some programs to improve morale and productivity. We have been reading lately about companies that are really getting more involved with their employees beyond the traditional scope.

Suppose you had an employee-productivity-incentive program of some kind. Would that be enough to make a difference assuming all other things are equal in a private/industrial thing? I'm only talking the private.

CONGRESSMAN LUNGREN: I don't know.

I've got to see precisely what the contours of the statute are. I would like to be able to stand here and tell you I would do all sorts of great gee-whiz things to change the whole State of California.

Sometimes I think as much as I think this job is important, some folks have an inflated view. It sounds like this job is more important than the Governor of the State of California or President of the United States sometimes.

SENATOR PETRIS: I guess we'll find that out.

CONGRESSMAN LUNGREN: I think we have to make sure that we do what we are supposed to do.

One of the things is to make sure that you don't

jeopardize the bond status of the State of California. I think you always have to keep that in mind. You do not use that as an excuse to bring bonds to market.

It seems to me that you have an obligatin to keep that in mind. The worst thing I could do is tell you that I'm doing a great job of trying to promote employee morale and increased productivity with respect to letting out these bonds, find out they fall flat on their face, it jeopardizes the bond rating for all similarly situated bonds in California and ultimately California GO bonds.

I don't think you want me to do that.

SENATOR PETRIS: No. I'm not suggesting that.

The questions are based on the assumption that the competing companies would bring the state -- let's say in the investment area of PERS funds, they bring the state pretty much the same return.

The question is what other factors do we look for?

CONGRESSMAN LUNGREN: Can I just say one thing on that?

SENATOR PETRIS: Yes.

CONGRESSMAN LUNGREN: When you move to STRS and PERS, it seems to me that I have to be as prudent as possible because there you're talking about the pension assets of a defined group of people.

I think prudence is the guideline there. It does not

mean that I sit in an office and refuse to make what might be considered to be important investment decisions.

The worst thing I could do in that circumstance is do anything to jeopardize the assets of the pensioners. I just don't think you should do it from the standpoint of reality or from the standpoint of perception.

SENATOR PETRIS: I agree, but that's a given.

CONGRESSMAN LUNGREN: I don't think that's always a given.

SENATOR PETRIS: We have to assume for the hypothetical, if it's not a given, I'm with you. There's no question, you have no other choice.

Let's say you have comparable companies, A, B, C and did. What I'm looking for is the opportunities for the state to encourage better and better policies of management in their relationship with their employees.

It could be done in other areas. Mr. Unruh, for example, did it, it was mentioned yesterday, in his dealings with depositories. He would say we're not going to deposit state funds in this institution if we find that you're discriminating against people in violation of some of the statutes that he had carried years before.

There are selective areas where this could be done where the state in that position can encourage better policies which really in some ways reflect public policy anyway.

That's the area and spirit of which I'm asking these questions. It would seem to me if I were in your spot and I were the Treasurer and I had three or four companies and I believed through my staff experts that the investment risk is the same and the return is about the same but one company towers over the others and a few of these other factors in the way they treat their employees, I would tend to favor that company as part of the public benefit thing to show an example and acknowledge what a more enlightened company would be doing.

CONGRESSMAN LUNGREN: You make a good point, Senator.

I would think if the arguments are correct, and I tried to delve into this a little bit when I was on the Joint Economic Committee, and we held field hearings in both on Silicon Valley and Route 128 where we tried to determine what factors led to increased productivity and what factors led to successful operations in the high tech arena. We tried to investigate that very question of employee morale and treatment of employees and the relationship of workers to supervisors to management.

There were some encouraging suggestions that you do get increased productivity. One of the lessons we learned out of the Japanese production experience is that there is an approach of responsibility and respect from the worker corps

to the management corps. That has a very definite affect in terms of productivity.

Another way of looking at it from the standpoint of someone investing is you make that judgment, and your judgment is that you more probably will get a better return on your investment than somewhere else. Therefore, it can be justified for those reasons if for no other. I think they would have to be substantial reasons as opposed to somebody has got a great idea of how you do it.

SENATOR PETRIS: And it's novel and it's never been tried.

I understand. I agree with you on that as well.

Mr. Chairman, would you rather to go over to our recess time?

CHAIRMAN ROBERTI: Well, my preference would be that you continue your questions after recess. Senator Mello indicated that he has questions.

Congressman Lungren will be given a chance to rebut that portion of the program. Then we will continue after that with the bond authority testimony which will conclude the day.

Without objection, we'll break at 12:10 for an hour and a half, which brings us to twenty minutes of 2:00.

(Thereupon a luncheon recess was taken.)

AFTERNOON SESSION

--oOo--

CHAIRMAN ROBERTI: The meeting will come to order.

As we were about to recess, Mr. Ralph Morrell indicated he wanted to make a statement, and he said head to leave early. So, if there is no objection from either the Members of the Committee or Congressman Lungren, Mr. Morrell we can take you now before we get into things.

Mr. Morrell did not tell me what side he was on or what his testimony was. We are always interested in what you have to say.

MR. MORRELL: I'm on the people's side.

CHAIRMAN ROBERTI: That's right. Okay.

MR. MORRELL: Is this thing speaking well.

CHAIRMAN ROBERTI: Yes. We can hear you.

MR. MORRELL: Senator Roberti and Members, before I actually get into what I was going to say, the reception I received this morning requires some comment.

I came with my tape recorder to the door, and the Sergeant at Arms did not say that the Rules of the Assembly or the Rules of the House prohibits. He said, "You can't come in here with that."

I think that Mr. Beard should give his staff some instructions on how to treat the people paying their

salaries.

It's been alleged by my Senator Barry Keene that Congressman Lungren is a zealot. I also have been accused, among other adjectives, but then was not Patrick Henry the ultimate zealot? Give me liberty --

There are three questions on this tape, about thirty seconds, maybe a minute, spoke by one of your colleagues. He announces who he is but you would recognize it anyway.

The confirmation of Congressman Lungren whose integrity and honesty have been testified to should be voted or rejected based on his answer to the final of the three questions posed in this tape, including all that it implies, including his willingness to pursue and obtain the desired report. If he can provide the answer all Californians would like to hear, then he should be confirmed, I submit, without delay so that our lawmakers can go on about the people's business secure in the knowledge that the taxpayer resources are protected.

Let me see if I can go here.

(Thereupon the following taperecording was played.)

"This is Quinton Cob. Ten days ago I began radio ads explaining my independent candidacy for the State Senate. Now my opponent, Louis Pappin, has responded with a vicious deceitful radio attack on my honesty.

"To make it worse, Mr. Pappin lacks the courage to make his false attacks in a public debate. Mr. Pappin talks about his heart of gold in one breath and then purposely lies with his next breath.

"Truth is, Mr. Pappin has yet to be honest with the public. For example, why did Mr. Pappin punch a fellow Legislator in the face in the State Capitol? How did Mr. Pappin become a self-proclaimed multi-millionnaire in just eight years in the Assembly? Why did Mr. Pappin become partners in a bank when he sits on the committee that oversees banking in California? Why won't he allow an audit of the Legislature's secret $150 million slush fund?"

MR. MORRELL: That Mr. Chairman is the question. If the Congressman desires to answer it now, I'll be delighted to report to the 34 city and county government officials who have endorsed this effort that the Congressman is so disposed.

CHAIRMAN ROBERTI: Thank you, Mr. Morrell.

We will let the Congressman in his own way and in his own time respond to it.

Senator Petris.

SENATOR PETRIS: Mr. Chairman, I don't know if that tape becomes officially part of this record. If it does, then

I think that there should be some answers.

I don't think that the tape belongs-- it's okay to hear it.

I understand the point that Mr. --

CHAIRMAN ROBERTI: Yes. I think for the record this was a political tape that I guess Senator Cob, then Supervisor Cob, was using against the Assemblyman Pappin for a State Senate race, and it's not, except for the question that Mr. Morrell posed, is not relevant to the confirmation hearings vis-a-vis the statements about former Assemblyman Pappin.

MR. MORRELL: I really can't believe I heard what you said.

SENATOR PETRIS: Well, it means, sir, that you're accepting those statements of Mr. Cob as true.

MR. MORRELL: I know they're true, sir.

SENATOR PETRIS: Well have a good day.

CHAIRMAN ROBERTI: Now, we're back to the hearing.

CONGRESSMAN LUNGREN: Mr. Chairman, I understand that the audit responsibilities of fund of the State Legislature are done by outside auditors and not by the Treasurer, so I guess that's not really within the ambit of my responsibilities, unless someone would want to give that to me, and I don't think you do.

CHAIRMAN ROBERTI: We'll pass on that, Congressman.

CONGRESSMAN LUNGREN: I knew we'd find something we'd agree upon if we were here long enough.

Mr. Chairman, it's a full plate this morning for the various catagories that were presented.

Let me briefly respond, as best I can, to them. First of all, I must say that I'm flattered by some of the comments. I have now been nominated not only for Governor, I've been nominated for Senator, and someone even nominated me here for President.

All I want to do is be Treasurer of the State of California.

With respect to the question of my vote for working men and women of California, my district is a made up in large measure of working men and women of California, both the district I used to represent and the district I presently represent. It's populated by any number of people in the working class of America.

I managed to bring my vote total up to 73 percent over the last couple of years. I think it's amazing that these folks would want to vote for me knowing everything that was said here today.

I suppose I'm very much in the situation that George Deukmejian and Ronald Reagan find themselves. They seem to have the support of the working men and women including those who are in the labor union although they may have not have the

support of the leadership of the unions.

Let's go over the votes where I was declared to be against the workers. Let's talk about the fact that -- and these are the votes. If we want to go back and talk about my ratings, let's go through a few here.

In the 96th Congress, the AFLCIO official rating, the first one was an amendment that I supported to reduce counter-cyclical aid from $1 billion to $525 million. Obviously a vote against the worker if you listen to what people just told you.

What was it? It was an effort to reduce that to the level contained in the Democratically passed budget of the House of Representatives.

What does that mean? That means that we considered at the beginning of the year what a budget ought to be. We determined numbers. We had a program. The Democratic majority had a program, as often is the case in the Congress of the United States particularly prior to the time Ronald Reagan got there, the Democratic program got through. That program earmarked $525 million for counter-cyclical aid. We had a bill on the Floor that brought it up to a billion.

I happen to think that budgets are to be followed. I supported the amendment to bring the spending down to the level contained in the Democratic budget. I don't know how that is against the working men and women of America.

With respect to Chrysler bail out, that was another key vote they had. That was a very tough vote for me. I had to figure out if it made sense for the Federal Government to bail out a major corporation in America that through bad management had gotten into trouble.

I had a reason for looking at it that may have been different than other Members. I remembered the Lockhead bail out. I remember when the Lockhead bail out took place. It had the ultimate result of jeopardizing employment in my district because what it did was it sustained a third major air frame manufacturer in the United States when the market could only sustain two.

So what did it do? It allowed Lockhead to continue making L-1011's for several years and take business away from McDonnell-Douglas which made them more vulnerable in the market place. And what happened? After a few years, Lockhead got out of the commercial air frame business. The Air Bus Consortium in Europe came in and taking advantage of the weakened condition of both McDonnell-Douglas and Boeing captured a percentage of the market they never had. The net result is we probably lost jobs.

So the Chrysler bail out came up, and it seemed to me to that it made sense to look at what happened previous to that, and I voted against it, not because I was against workers. I didn't think it was appropriate to use taxpayer

funds to bail out a corporation which through bad management had gotten itself into a serious position.

Many elements of that corporation would have been taken over by other American companies, and we would have had a situation of profitable.

I'm not against Chrysler having recovered after the bail out. In fact, I went out and bought one of their cars sometime thereafter. But it seems to me for a-billion-dollar bail out from the Federal Government, that's not a question of for or against American workers, it's what you think is best in the long-term interest of the American workers.

Let's look at another key vote here. I voted to support a Constitutional Amendment to ban school busing. That's a vote against the AFLCIO? Now, we may have differences of opinion here, but I would tell you that is the majority sentiment in this state and in this country, and a vote against forced school busing is a vote against the workers of America?

I had some of the labor people -- I'm talking about the labor people. The people working in my district coming to see me. I sat down with them and said let's go over the voting record.

How many of you support mandatory busing in your areas? Not a one hand went up. Not one hand went up with that group. So, they did not think that was a vote against

them or their interests, but according to this it is.

The Amendment to the Fair Housing Act. We have already talked about, passed 205 to 204. The question was do you have ALJ's, Administrative Law Judges, or do you have federal judges make the decision? Controversial? Yes. 205 to 204.

Do you think the average working man or woman in your District believes that you're against workers because you voted to give people the right to have a day in court with federal judges as opposed to Administrative Law Judges?

You can go on and on and on these things. They said I was against workers because I supported the Archer amendment to windfall profits tax. What was that? That was to exempt from the windfall profit tax oil produced by companies that pumped less than one thousand barrels a day.

What are those? Independent producers of a small size. What area did that effect probably than any other? California.

What happened in my own City of Long Beach? We had at least 300 oil wells close, not producing, not because they did not have oil, but because the controls mandated by Congress both in terms of controls and in terms of windfall profits tax made it inefficient to do that.

Several of the votes I made in that area that they find against the worker were for the benefit of the people of

California because wells that were closed in, in Long Beach, were on state owned lands. That money goes into the coffee fund. That supports every single educational institution in every single one of your districts, but that is supposed to be a vote against the working men and women in America.

Budget votes. Votes to try to bring the budget deficit down. That's against the working men and women of America? You can go on and on and on. One of them they found said I was against the working men and women of America. I supported the Gephardt Amendment. You may have heard of Gephardt. He's one of the two leading candidates for president on the Democratic side.

I supported his amendment to try and work out a compromise in terms of the cost, the escalating cost, of hospital care back in 1980. Yet that support of that particular amendment is taken by AFLCIO official report as being against the working men and women of America.

All I say is that I hope that you take with a grain of salt some of the criticisms that have been raised here.

Let's go on to some of the other things. There was a question here of one of the votes that I had, the Miller Amendment, dealing with farm workers.

That happened to be, that amendment happened to be defeated 199 to 227 because people felt that, in fact, that was inappropriate with respect to the compromise that had been

struck and agreed upon for the protections that they thought were sufficient and necessary. Now, I remind you a 199 to 227 vote, that means considerable Democrats voted against that amendment as well.

There is the statement continually made by the people you brought forward to oppose me that I consistently oppose the environment. I voted for the original Super Fund Legislation. I explained to you why I voted against the conference report when they took off one of the key provisions. That key provision being a protection of the waterways of America from oil and chemical spills.

I represent a coastal district. You would think I would be concerned about that. I mentioned how I supported the reauthorizations of the Super Fund.

I mentioned to you how I opposed paying for the Super fund by an amendment which would have a new a value-added tax, something we've never done in the history of the United States, that is a federal value-added tax. We may come to that someday, but the question was whether we should have a broad-based value-added tax to sustain the funding of the Super Fund bill, or whether we should have a tax levied on the polluters, those most directly responsible for the pollution.

I supported that. I supported the Clean Water Act at a level of $12 billion but not at a level of $18 billion. I

happen to be concerned about the budget. I happen to think it's important to look at every single program that we have and attempt to work within the limits that we place upon ourselves.

I heard the representative SEIU say I'm not in the center of politics. How can you get elected and re-elected and re-elected and re-elected and re-elected if you're out of the mainstream? I don't understand that. They criticized me because I support Ronald Reagan. Maybe they ought to look at who was elected, not only Governor of this state, but also elected President of the United States with, I note, the support of Californians, in your districts as well as mine, Democrats as well as Republicans, labor union members as well as workers not labor union members.

The strange thing is that in California we on the Republican side are in the minority by registration, even though Mr. Fields suggests that we're coming up. We have always been in the minority. That means we have Democratic and Independent votes ever to be elected. I never would have been elected if I did not attract Democratic votes.

One of the largest segments in my district is of senior citizens. I have the original Leisure World in my district. I probably have more town hall meetings there than any other elected official. I've gone in there and spoken with them time and time again.

When the question came up in 1982 as to what we should do to sustain the Social Security system, when this administration came up with proposals, came up with 16 proposed changes in the Social Security system, then Speaker Tip O'Neil criticized the President for presenting, and that became the centerpiece for the campaign in 1982, and that resulted in the loss of 26 seats on the Republican side.

In the midst of that, I had an open town hall meeting in the amphitheater of Leisure World in which I explained to the folks what a problems were and asked for their consideration of the changes, and after about two hours, got a sense that they were willing to accept many of the changes as presented by the President to allow the Social Security system to survive.

As I have mentioned before, we came back in a lame-duck session that year, after the election when Tip O'Neil announced that there was a crisis with Social Security, when he asked the President to come forward with a commission so that we could make a recommendation. When a commission recommendations were presented, they adopted a number of the recommendations that the President had made.

People keep talking about the fact that I voted to increase the age of retirement. We can all fool ourselves and say we're not going to have to raise the age of retirement. But I want to tell you, you're not looking at demographics of

America if that's what you're talking about.

We're not going to be able to sustain the Social Security system in America when my generation retires if we don't make some changes. Maybe the lady representing the Gray Panthers wanted to say that I was anti-senior citizens because I supported an amendment that suggested we ought to raise the retirement age from 65 to 67 beginning in the year 2000, I tell you.

In the year 2000, the impact of the amendment would be that you would retire at 65 years and 2 months rather than 65 years, and would go up thereafter. You, ladies and gentlemen, can show me the statistics which suggest that we need to make no changes in Social Security, everything is fine, the MediCare is fully funded, Social Security is fully funded into the year 2000 and beyond, I'll be happy to look at that.

I'm going to tell you, I've looked at it, and it's not true. Some people don't like to look at the hard facts. They want to give people a good feeling and not realize that we've got problems.

But to be criticized because you're trying to save the Social Security system is being anti-elderly is the height of misunderstanding.

One issue I probably should avoid because politically it's tough, but I just can't avoid it is the

suggestion by some, by anybody that the United States is responsible for American Auschwitz's. The treatment of the American Japanese during World War II was deplorable.

I served on the commission dealing with that question for two years. I studied that question for two years. I was the vice-chairman of the commission, elected by my peers, a majority of whom were Democrats. It's not a good time in our history to look back on. But for anybody to suggest that our concentration camps, or our camps, were like the Auschwitz camps does a disservice to the memory of FDR and the disservice to the memory of the Holocaust.

The camps were bad. The camps were something we should apologize for. I'm not going to condemn my parents' generation for being involved in the creation of Auschwitz. Anybody to suggest that does not understand what took place at Auschwitz, and anybody to suggest that paints a picture of an America that did not exist and does not now exist.

The question was raised by one of the representatives of what I would do with the retirement funds, would I extract some of them to use for the budget. I tell you now, my pledge is no I would not. I would not support that. I also think you'll finds that the Governor would not support it in the future either.

We've had now three representatives of the National Council of Senior Citizens appear. All three of whom attack

I did not just sit back and say we're going to oppose what the Democrats come up with. I got together with the Republican leadership and said let's come up with an affirmative proposal to take care of the catastrophic health problem, let's see what the senior citizens are most concerned about. The national polls show the greatest concern they had is long-term care, long-term nursing care. Do you realize the Catastrophic Health Care Bill does nothing for that.

The last thing they were interested in by polling data taken by several polling firms was a policy that would cover their prescription medicine if it required them to pay a substantial amount of money per month.

What is one of the key features of the bill that passed? That particular proposal which was last on their list.

I came up with an amendment to make it an optional program so that senior citizens who were already covered basically by those things to be covered by the catastrophic health insurance program would not have to pay double or would not have to give up what they considered a better program.

I did it in part because Federal retirees already have the support needed for these various programs, and they would then be required to pay a tax for something that would not benefit them any more than what they have now.

The National Federal Retired Employees Association

came out against it as did all 50 of its state chapters. And yet the suggestion is that I somehow am against elderly because I supported something that was in the best interest, in my belief, of the senior citizens not only in my district but the senior citizens in the United States.

Lastly, with respect to that bill, the costs incurred are massive, and the benefits given to the average senior citizen are minimal. Additionally, the way that the bill was constructed, support for a major part of the AIDS program, a health program we're going to have deal with, will be paid, the way this bill works out, by the senior citizens of America.

I happen to think we have to do something about supplying medication that shows some promise for AIDS victims. But to say the way we're going to finance it is through an increase in tax on those over 65 does not make sense to me. In fact, I would say the way the bill is written is, in fact, anti-elderly in its impact although not its intent.

To suggest that because you wanted to change that, because the perhaps unintended consequences of that bill were to jeopardize the health facilities available to senior citizens, increase their costs, and have the senior citizens of America pay entirely for the prescription health benefits for those suffering from AIDS, that's what we're talking

about.

Finally, I would just say this, Mr. Chairman, I was hoping we would talk about the fact that as a Member of PERS and STRS I would have an obligation to uphold a fiduciary responsibility to the retirees who are encompassed by those programs. It seems to me that is extremely important. I'm sorry that got short-shrifted here. It seems to me that that is more on point than any of the things that have been brought up.

I would tell you that my responsibility as a member of those boards is a fiduciary one that I hold very dear. I learned that not only in law school, I learned that growing up all the way along, that you have obligations to people other than yourselves and you put them first. It seems to me that's what we ought to be talking about.

I've talked generally and specifically to some Legislators about their thoughts about special investments that we might have, or certain catagories, and I've tried to indicate that I would be open to that, but I always wanted to make it clear that my first obligation as a member of those boards would be to the beneficiaries. You have got a fiduciary responsibility to those people, that, it seems to me, ought to be a prime concern.

I would suggest, although obviously I'm not the one making the determination, you on the panel and those of your

colleagues in the State Senate and the Assembly are. I would suggest -- I would hope that you would want someone who would serve in that office who's shown integrity, who's shown a commitment to his job, who's shown fiscal prudence and responsibility, I would hope that is what you would want. I've been to hear that is what you want.

I would think if you talked to most of the beneficiaries of the state funds, that's what they'd want.

Mr. Chairman, I'm ready to answer any other questions that you might have.

CHAIRMAN ROBERTI: Thank you Congressman Lungren.

Senator Petris, had you concluded?

SENATOR PETRIS: No.

CHAIRMAN ROBERTI: Senator Petris and then Senator Mello.

SENATOR PETRIS: Thank you, Mr. Chairman.

There is a new investment or vacancy in the position of investment manager with PERS, and I understand that one of the first jobs of the new Treasurer will be to find someone qualified. There has been a dispute, or difference of opinion let's say, and I don't mean to present it as a big fight but a difference of opinion, on the issue of whether the manager and some of the experts dealing with the huge investments made by that fund should be in-house people who come up through the ranks or be outside experts hired on a contract basis. We've

done both over the years.

Do you have a preference.

CONGRESSMAN LUNGREN: My preference would be the best people we could get for the job. I'd look over what the experience had been of the people within the ranks and what the experience had been with outside consultants. I would make my judgments from that. I have no bias going in as to which way it should go. My concern is the best job that can possibly be done for the system involved.

SENATOR PETRIS: One of the problems was that we could not get the best at the salary levels that prevailed at the time, so we made special exception which I hope still exists.

CONGRESSMAN LUNGREN: I understand that it does.

SENATOR PETRIS: We have a divestature policy. You indicated that you would carry out whatever laws are on the books.

CONGRESSMAN LUNGREN: That's correct.

SENATOR PETRIS: I assume your answer on any remaining actions that need to be taken on divestature on any of these funds, you would follow the statute I assume?

CONGRESSMAN LUNGREN: I would not only follow the statute, I would do anything in my power to make sure that the statutes were fulfilled by the dates determined by statute.

SENATOR PETRIS: I don't remember the dates but it's

a graduating thing.

CONGRESSMAN LUNGREN: It's phased in, as I understand. Whatever the dates are, we would follow them.

SENATOR PETRIS: The Council of Institutional Investors has been mentioned several times because Jesse Unruh either founded it or was one of the founders.

Have you taken a look at that? Do you plan to be active in that on behalf of the state?

CONGRESSMAN LUNGREN: I have looked at it, but I must tell you that I haven't had a great deal of time to be able to expose myself to it or talk to the people who have had the real responsibility in that regard.

Like a lot of things, it sounds like a good idea. How effective it is, I don't know. I can't give you a gauge because I haven't had a chance to look at it.

It seems to me that the basis of the existence of corporations in America is that they are owned by the shareholders and they have a responsibility to the shareholders. It seems to me with regard to the investment of state pension funds in corporate America, there is no reason for them not to be involved, and for them to protect the rights of their shareholders they represent. You have a real obligation there.

If the question is, however, do I think that we necessarily have a better idea of how to manage a corporation,

I think you have to be very careful there. You have to have a little humility there. I think have got to protect the rights of the shareholders, but at the same time, you ought not confuse the fact that there are corporate managers, and presumably they know what they're doing, and if not, they should be thrown out by the shareholders. I think there is a fine line there.

You ask me where you draw it, I think you draw it on a case-by-case basis.

SENATOR PETRIS: No. I'm not asking you that. That's a difficult thing for anyone to predict. You just have to look at each case. I certainly agree with you on that.

One of the problems I have in mind that is confronting us is the corporate raids that are going on, the takeovers, hostile and friendly, the fact that our state has an enormous amount of money invested in shares which have to be voted, frankly, I don't know what the mechanism is there, but I assume that as a shareholder the state casts votes on particular takeovers, and a lot of them have happened to companies be companies in California, and we get back to the local economy, public benefit, the treatment of employees, and a bunch of other things that make those decisions that on the surface appear to be a fight between a couple of gladiators turn out to be pretty complex decisions.

I don't envy the position of anybody to be drawn

into that. You can't control it. You can't help it. We're sitting there owning that stock.

Have you developed some criteria of your own or is it too early to ask you?

CONGRESSMAN LUNGREN: As you know, Senator, these questions are under active consideration with the Congress at the present time. They were under active consideration prior to the October nineteenth events that took place on Wall Street. They have been the subject of more intensified consideration since that time.

If you could define green mail as just an attempt by someone to threaten to take over a corporation and thereby to get money as a result of a buy-off, so they won't take it over, that type of activity, I would guess in most economic analysis, does not contribute to the economic vitality of America, it doesn't do too much.

If you look at at lot of the golden parachutes that have been created which are protection of current managers against takeovers, I'm not convinced that they, in many cases, promote better economic activity, more jobs, et cetera.

To say, however, that takeovers in and of themselves are necessarily bad, takes it too far. If you look at corporate America over the last 20 years, one thing is clear.

We tried to insulate ourselves from the international market place, and we tried to suggest that we

could go it alone and ignore what was happening in the outside world. The economy now is internationally dependent. We may be the biggest player still, but we're not as big as we used to be relative to the others nor will we ever be.

That's a consequence of other counties growing up economically. Takeovers in some instances actually promote the health of the economy and jobs in America by forcing corporations to change some of their management techniques and actually to become more competitve.

I think long-term, a number of the takeovers that have existed and taken place, probably have proven beneficial to the average American worker and the average American company because we have made ourselves more productive.

There is a lot of doom and gloom right now as to where we are in the economy. We have some problems particularly with the deficit. But if you look at where the American economy is right now, I have to say there are a lot of positive signs basically because we are now at a level of productivity where we have not been in twenty years. We basically have lean operations. We're not -- they're not top heavy in many cases. They're not featherbedded in many cases.

We have an unemployment rate that is going down which suggests that in fact we are being able to bring in balance the job market with jobs, even though we have some

terrible problems continuing with respect to hardcore unemployment in some areas.

I think that American business is poised at the present time to really be far more effective in the international market place. I think you have to be very careful when you say takeovers. Yes, in some circumstances, I think they are harmful, but in other circumstances they may be what ultimately saved the company; they may be what ultimately saved the workers jobs.

You have to be on the lookout for both of those things when you look at any particular corporation and say what should we do to go in and change decisions that are being made. You don't refuse to do it, but I think you've got to look at the whole picture.

SENATOR PETRIS: Well, I'm glad we went into that because that's become a major part of the Treasurer's responsibilities now it seems to me. It's going to increase before it subsides, if it every does.

More recently, we've seen foreign companies come in and make bids. There is a question of where does that leave us? What are their intentions?

Some of the takeovers, unfortunately, have resulted in a piecemeal destruction of the company and the sale of its assets. There is no increase of productivity in those kinds of operations. People are laid off. Plant and facilities are

sold for the profit to the newcomer and so forth. It adds to the complications.

I just have a couple of other areas. One is I would like to know your views on what you think are the important ingredients that go into economic progress and economic development?

I'll make it more specific because we could take a lot of time on that. There are two schools of thought, as I understand, them regarding the climate -- business or economic climate of a particular state or region. One says that you promote economic development and better business if you have low wages, low fringe benefits and keep those costs on the labor side of the business equation at a minimum.

Others say, and they have reports to back them up, to get the best economic development, long-range in particular, where you have a higher standard of living, a higher level of wages, higher level of fringe benefits and so forth.

I have a bias. From what reading that I have done and persons that I have spoken to, I tend to subscribe to the later view.

Do you have any strong feelings on that which would influence your investment policy decisions?

CONGRESSMAN LUNGREN: I don't quite put it in that category. I happen to believe what John Kennedy said in the

early 1960's when he said a rising tide lifts all boats.

I happen to think that that's it. I don't think you use a better thy neighbor philosophy either with international trade or with respect to your national economy.

I still believe in the idea of the expanding pie. If we ever get to the situation that we say that in fact the size of the pie is set, static, cannot be increased, you inevitably create the possibility of class warfare in this country, not in true warfare circumstances, but a clash of people of different economic strata precisely because what you're saying to the person who has something is you're going to have to give some of that up or a large part of that up you're not going to be at the table anymore, somebody else is going to take your place.

I have always thought the idea of a expanding economy made more sense from a humane standpoint. It also was possible.

Some of the economists in the 18th Century and 19th Century thought we were limited by the natural resources we had. That is that the country with the greatest number of natural resources was the country that was going to dominate. If you didn't have the natural resources, you were doomed to failure in an economic sense.

That's been disproven over and over again. The imagination of the human mind, the ingenuity of the human

spirit is that which creates new wealth, and I mean wealth in the positive sense. I mean creation of what more that can be shared.

We constantly forget that because we have become frozen in a time frame of the present. We forget history and the future. We don't realize that things are going to change.

My idea is that what you do is that you contend that the pie can get bigger, that businesses can improve not by holding labor under their thumb, but being successful in terms of increased productivity which today is not increased productivity based on more sweat by the individual working, but rather by surrounding that individual with greater, I could call it a number of things, greater tools that increases productivity.

That's why people forget when they look at the high tech industry and they say, look, that has nothing to do with the Midwest, that has nothing to do with car manufacturing, that has nothing to do with traditional manufacturing. They are wrong. In fact, it is the application of high tech which will make our manufacturing base continue in the world and make us able to compete.

I don't harbor this notion that the way we're going to increase the economy is to hold everyone down. I still think that the way you help people is to increase the economy. As the economy increases, the opportunity increases,

people have more opportunity. As you upgrade the manufacturing base, as you upgrade many of your businesses, you surround people with better tools to do their work and, in fact, that enhances productivity upon which you can increase their wage base.

SENATOR PETRIS: Thank you.

CHAIRMAN ROBERTI: Senator Mello.

SENATOR MELLO: Thank you, Mr. Chairman.

You just invited us to respond about who we wanted as Treasurer, someone with honesty, integrity and a commitment and hard work, and from what I know of you, I think you could fill the bill.

Hearing the day and a half of your testimony, the response that I get is your solution missed the mark. The way you responded -- and my main focus is on senior citizens.

You talked about polls, and what some organizations are doing. If you would only go into some nursing homes and senior centers, you'll find out what some of the solutions are.

The other point I wanted to bring up that has been brought up before, but I want to approach it differently, and that is the so-called prosecutor memo, that I did not see. I asked Senator Petris this morning if he saw it, and he said, no. Senator Roberti rejected it. I don't know if Senator Craven or Ellis saw it or not.

But the point is, both yesterday and today you make a big point of, as quoted in the L.A. Times that we're following a script for political lynching. That's really an attack on the three Democrats here and the fact that you will need Democratic votes to get confirmed in both Houses.

What I want to go through is not a script but facts taken out of the California Journal, dated August 12, 1982, the last time we confirmed a Constitutional Officer in the State of California in the name of Conway Collis.

Senator Roberti moved that Conway Collis be confirmed as the Governor Appointee to the State Board of Equalization. He was confirmed in the Senate by the following votes: Ayes, 21, all by Democrats; no's, 16 all by Republicans.

The following Republicans, Beverly, Campbell, Craven, Davis, Doolittle Ellis, Marks, Garcia, Johnson, Maddy, Marks, who was a Republican at that point, Neilson, O'Keefe, Richardson, Russell, Schmitz, and Seymour.

With that vote he was confirmed in the Senate. What happened over in the other house, the reference is made here about partisanship and this is why I want it to go into the record.

This is taken on out of the Assembly Journal on August 16, 1982. The motion was made to confirm the Governor's Appointee of Conway Collis to the State Board of Equalization.

Before a vote could even be taken, Assemblyman Lancaster moved to refer the question to the Rules Committee, which is the proper procedure under their House. That was rejected by the Democrats by a vote of 43 to 31.

Then the question was what shall the Governor's Appointment of Conway Collis be confirmed by the Assembly, and that was the vote, was confirmed by 46 to 31. Every single one of those no notes was cast by a Republican. There was not a single member of the Republican Party who joined with the Democrats in confirming Conway Collis, who happened to be a Democrat appointed by Governor Jerry Brown.

But it did not end there. The motion was made by Montjoy to move for reconsideration on the next legislative day.

They tried everything in the book there to try to -- I mean you talk about partisanship. This is the fact that is in the Journal in both Houses. Assemblyman Montjoy moved to reconsider on the next legislative day. Assemblyman Bain moved to take the issue up right now, which is the prerogative of the House. The motion to take it up was put to a vote, that vote was 43 to 29; again, ayes, all Democrats voting aye; and all Republicans voting no.

So, it was not delayed to the next legislative day. Then another motion was made by Montjoy for reconsideration. That was defeated by a vote of 44 to 30. With those series of

defeats all cast by Republicans finally Conway Collis was a Member of the State Board of Equalization and did take office.

I wanted to point that out. I do not like to be a recipient of such charges of of partisanship. I've voted many times here in a bipartisan way, as other Members have also, to help confirm people nominated by the Governor. Let me tell you that our record from this Rules Committee is 99.7 percent of the Governor's Appointees has been appointed.

Many times, because Members have to leave for certain reasons -- I can recall Senator Petris and Roberti and myself being here, and the other two gentlemen being out for a moment, they got confirmed on a three to nothing vote.

When you take all this in the proper context, and again with Senator Maddy's letter saying let's not let Willie Brown and David Roberti terrorize George Deukmejian like the Democrats do to Ronald Reagan in Washington.

We're spending three days here of hearings. The thought has entered my mind a lot. We just ought to go to the Floor and vote rather than listen to rhetoric that I think doesn't get us anywhere.

SENATOR CRAVEN: May I address the Chair?

SENATOR MELLO: The Chair will recognize you.

CHAIRMAN ROBERTI: Senator Craven.

SENATOR CRAVEN: I don't question the recitation of

the record, but I think that there is if you will allow me, I'll use the most kind adjective that I can think of -- forget the adjective, a slight difference in the situation, where all those Republicans were voting against somebody.

The nominee in question was a member of the majority party. That's a big difference because they had the votes going in, no matter how you looked at it.

This nominee is not a member of the majority party and does not have the votes going in or in any other way you look at it. He's very, very much dependent upon his ability to sell his qualifications and the efficacy of his approach to the Democratic Members, presuming that he's going to get the Republicans, which I think is a safe presumption, but he has to do more than just that. I think he's cognizant of that. Certainly I am.

I don't question the statistics, but I do believe the situation was a little bit different.

SENATOR MELLO: It's different in that -- you helped make my point really, is that Mr. Collis being a member of the majority did not need any Republican votes, but Mr. Lungren needs the Democratic votes to get confirmed.

Now, he started right out saying -- Senator Roberti, you advocated that this was going to be a fair and impartial hearing, and Senator Roberti was open and others, and then tried to blast us here by interjecting this act of

partisanship. That's why I want to make that point, because I think if nothing else, there has been no partisanship shown during this one and a half days of hearing. He's been given the opportunity to rebut on every subsection here.

SENATOR CRAVEN: I don't think there's any partisanship having been shown on your part. I don't think the Congressman is indicating that.

Really, I think what we're doing, perhaps, with all due respect is wasting a hell of a lot of time going over and over and over on that. What has been said and done is said and done, and nothing we can do at this juncture is going to change anything. Isn't that right?

SENATOR MELLO: Who knows. We're carrying out our constitutional right to take up our responsibility, and I think that we should do it in a manner that is factual giving Mr. Lungren and everyone else ample opportunity to testify.

So far I think Senator Roberti has done that, allowing Mr. Morrell and others to come forth.

With that I want to talk about primarily some of the senior issues, but also Mr. Lungren stated about one organization claimed he was one of the most effective Members of Congress and alluded to -- I think he's very clever. When an issue comes up, he's able to make the point that I'm a better -- my position is better for you, such as what he said in the argument about low-cost housing.

Actually there is no such thing as low-cost housing. There is housing for low-income families. But one of the witnesses said what hurts low-cost housing is inflation. He countered by saying, yeah, by me being a fighter of inflation, I'm able to help low-cost housing by keeping inflation down, and that's a good argument.

The thing is, the senior citizen or somebody who is looking for a rent-supplement program or wants to stay in their home a few more years -- inflation is long-term, and having a roof over your head is short-term, and I think that's the way you're able to divert the issues, to say your point of view -- that is one of the concerns that I have. If you become Treasurer, whether or not the sale of bonds will be handled administratively or whether you will exercise some discretionary act on programs that you may not like over the others.

Actually based on the research here that we've done, in nine years back there in Washington, only one of your bills, a resolution, was passed into law, HJ-438, a joint resolution to designate October 31 as National Child Identification and Safety Information Day. That passed by the House and Senate by voice vote and was signed by the President.

You alluded to some others -- but you did company author co-author several resolutions. I believe of those, out

of 140, they were 9 that became law, and some were just commemorating certain events like Snow White Week, which I don't really look at as overly important.

CONGRESSMAN LUNGREN: Do you want me to respond to that, Senator, or are you just making comments?

SENATOR MELLO: Senator Roberti is running the meeting.

CHAIRMAN ROBERTI: Have you finished you question, Senator?

SENATOR MELLO: If he wants to respond individually, that's up to the Chair.

CHAIRMAN ROBERTI: It's the Congressman's choice. Do you want to here--

CONGRESSMAN LUNGREN: Well, we're bringing up a number of questions. If you want an answer, I'll be happy to give you an answer.

Can you tell me how many days Conway Collis had hearing before the Assembly and the State Senate?

SENATOR MELLO: In the Senate, it went directly to floor.

CONGRESSMAN LUNGREN: And in the Assembly?

I believe it went straight to the Floor as well.

I think the point is made that Republicans knowing that it was a slam-dunk and given no opportunity to have a committee consideration, at least in the Assembly, thought it

should be recommitted to committee for consideration. There is a major difference there.

Obviously, not what is taking place here. With respect to the question of my record, those that have observed Congress for a period of time, have also observed that Congress does not operate the same as this Legislative body.

Here, I'm told, Republican Legislators can introduce a bill, carry it through committee all the way to the Floor, take it over to the other House, and see it passed with their own name on it.

In Washington, D.C. it doesn't work that way. If you're suggesting by your line of questioning that I do not have a very strong Legislative record because I have not authored a piece of Legislation, I do not understand why the non-partisan publication, Californian's in Congress, called me one of the ten most effective legislators in the California delegation, why U.S. News and World Report in a survey of my peers listed three Members of Congress who are to be considered future leaders of America, I was one, George Miller of California was one, Tom Downey of New York was one, and Albert Gore was the other.

If your suggestion is because I have not authored single bills with my name on them I'm not an effective Legislator, I don't understand their references, nor the Almanac of American Politics, nor Politics in America, the two

basic bibles of politics, or so considered in Washington, D.C.

If you would like to discuss my record and what I've achieved, I would be happy to talk about it. In the area of crime, in the area of anti-drug legislation, in the area of immigration law, in the area bankruptcy law, in area of fiscal policy, any number of areas. If you would like to deal with them issue by issue, I would be happy to talk about them.

Senator Roberti suggested yesterday that you could take a record and take a vote and misinterpret it.

If your suggestion is somehow because I co-sponsored Snow White Day at the request of one of my colleagues that represents Walt Disney Productions, that somehow that's insignificant, I beg to differ with you. I happen to think that when you have a chance to give a nod to a major employer in your state, it doesn't hurt to give them that nod.

SENATOR MELLO: I'm just going down through the -- you don't argue with the fact that you introduced 55 pieces of Legislation in nine years?

CONGRESSMAN LUNGREN: If you use the term introduced, no, I don't argue that. I also got passed the most comprehensive, far-reaching reform of the Criminal Code in the history of the United States. It does not have my name on it.

I was the primary person responsible for the immigration bill being passed. That is the Simpson-Rodino

Bill. It doesn't have my name on it.

I wrote the legislation that deals with Designer Drug Legislation, which I understand the State Legislature of California is now considering following themselves.

I wrote legislation with respect to forfeiture procedures that has given millions of dollars to the people of the State of California, not from taxpayers but from the bad guys. I'm happy to talk about my record.

SENATOR MELLO: I think that your responses to the people, on senior citizens, certainly, it reflects your philosophy which you're certainly entitled to. But it doesn't show the compassion, it doesn't show the cruel inadequacy that is out there amongst our seniors in California and throughout the country.

Going to the -- you dwell on the fact that you voted to raise Social Security eligibility from age 65 to 67 after the year 2000. Then you talk about the Social Security system being in financial problems in some date, I don't recall the date you used, but according to Claude Pepper, we spoke to him back in Washington last April, and I'm sure he's regarded as a person very knowledgeable and one of the leaders of Social Security. He says since the last changes were made, the system is solvent and remains solvent until the year 2020 or thereabouts.

Raising the age from 65 to 67 already people fall in

the gaps in their 60's, not eligible for MediCare and Social Security, and there is a question, like in California, if you worked for the state, you have a vested right or interest in that retirement, and I think if you pay into Social Security, you have a vested rights on rules and regulations that are in effect at that point.

Raising it to 67 just further removes seniors from the day in which they can look to retirement, and even worse than that, your votes against providing the COLA's for Social Security and resolutions that were going to provide no beneficiary cuts on MediCare and Medicaid -- we talked about housing.

Well, another one. Meals for older Californians. Right now we have 16,000 seniors on a waiting list for home delivered meals. The thing that is foolhardy about cutting back on the funding there is the home delivered meal is very important. Without the home delivered meals and in-home service supported programs and other programs, they find themselves in a nursing home, and we're paying about $1500 to $1800 a month instead of providing a reduced cost or low-cost meal.

We just got cut back two weeks ago on our federal funds on our meals program. You voted on HR-2807, voted against the motion that would have passed the bill to increase authorized funds for meals for the elderly.

I would like to point out that NCOA rated you 2 good votes out of 79, and 77 bad votes. HR-4785, regarding older Americans, you voted no on a motion to pass the bill authorizing funding for programs for the older American with increases in 1986 and '87. That vote was 406 to 12.

Looking over the votes, it is very often that you find yourself voting no with 10 or 12 or 15 people that apparently are not in the mainstream of the Republican Party because most of your colleagues are voting for programs that you, yourself, are voting against in some cases.

HR-4421, Community Services program, you voted for an amendment to reduce authorized funding levels by 5 percent for food and fuel assistance for low-income persons.

I think what I've heard -- your responses to the people testifying here for senior citizens, you pick out one little -- just like the bills we get. You may not like a sentence but you cannot vote for the rest of the bill, you have to vote for it in its entirety or vote against it.

You seem to pick out one or two items and say the reason I voted no is to help save you from further inflation. That's why I said, if you were to visit nursing homes and visit seniors in centers and Adult Day Health Care, you would see what some of the real needs are.

I don't like catastrophic health insurance. Only three percent of the seniors will get coverage under the

catastrophic health insurance, which is coverage for something that has a high medical cost for a catastrophic type of illness. What is needed is long-term care.

Anyone working on the issues knows that, but we cannot get any programs at all that helps bring about -- and the matter is not going to be getting any better. The next 20 years, seniors are getting older. The age 80 to 85 age group is the fastest growing age group that we have in our society. More people are becoming a hundred than ever before.

The attitude of Members of Congress that do not want to reach out and try to help part of our population that really makes it what it is -- America is so great today, we've added to it perhaps, but the people who really made it what it is are the people the 30's and 40's and 50's and 60's and 70's that worked hard to bring us to where we are today. Many of them are suffering in the cruelest manner that you can see, not all of them, but a high percentage of them.

That's why I think it's a high priority to make sure that the Golden Years are rich and rewarding and provide dignity and respect to this large segment of our population.

Your voting record on seniors is completely, well not completely, three percent positive vote, but it's 90 percent against senior citizens.

CONGRESSMAN LUNGREN: Do you want me to respond to that?

CONGRESSMAN MELLO: I expect you to.

CONGRESSMAN LUNGREN: Well, it's hard to know where to begin. We're back and forth and back and forth on the basis of your criticism.

You continue to criticize me for supporting the increase in the Social Security retirement age. You might be interested to know that it was an amendment presented by Jake Pickle, Democratic Congressman from Texas, Chairman of the Social Security Subcommittee of the Ways and Means Committee.

He argued that it was absolutely necessary for us to do in order to support the system. He was a Member of the Presidential Task Force, along with Claude Pepper and others, to set up a system that would allow the Social Security system to be in fact not bankrupt, to be in some fiscal order.

This was in the context of the consideration of the Social Security Amendments of 1983. Your quote by, attributed to Claude Pepper is after that. Claude Pepper is referring to his belief that the system is viable to the year 2020 if you take into consideration the changes that were voted in 1983. This was one of the changes that was considered. This change passed on a vote of 230 to 200 and part of a total package that went forward with respect to those changes that you have quoted Claude Pepper referring to.

I'm talking about my generation. My generation is the generation that is going to be affected. I'm going to be

affected by that change. Do you think it is easy to tell people my age we're going to have to work longer in order to be retired, it's not. But, in fact, it is necessary.

If you want me to come here with a salve and suggest we don't have to deal with that, you're asking the wrong person.

I would hope that is what you want from the person who is Treasurer of the State of California dealing with pensions. Maybe you want me to come after I'm Treasurer and tell you everything is fine with the pension system even though I know it isn't. Maybe I should tell you, like the Social Security system, we don't we don't need to make changes because someone believes it's going to take care of itself.

I think I would be doing a disservice to you, I'd be doing a disservice to the senior citizens in my district.

You challenge me to go to nursing homes and senior citizen centers. I've been there.

I was there long before it was an issue. I used to tag along with my father when he visited elderly patients over the years. I've seen that for a long period of time.

My father is an old-fashioned type of doctor who raised hell if his patients weren't getting quality care. He did not care if it was the administration of a hospital, nursing home, or the family. If they were not taking care of their sick, particularly the elderly, he let them know it and

did everything he possibly could to make sure they received that care.

So, Senator, I'm someone who has been there. I've walked those halls long before I was in the halls of Congress. I understand what you're saying, but at the same time, as I told you the other day, I have to consider a number of different priorities.

You take a out a vote where I voted against a COLA freeze, but at the same time, you do not talk about the COLA freeze presented by Representative Jim Jones, the Democratic Chairman of the Budget Committee, and Representative Marvin Leith, who is the Head of the Conservative Democrats in the House of Representatives, and Representative Leon Pinetta. You and I know him. He's hardly a Conservative Republican, yet on May 23, 1985, he offered a budget resolution along with the two other gentlemen and offered an amendment on that budget resolution which would have imposed a one year freeze on COLA's for Social Security, Federal Retirement and Veterans Compensation.

I voted against that. I did not think that it was appropriate in the context of the total budget package we were considering. So I consider my vote everytime I vote. If you're going to criticize me for voting for a COLA in one case, I hope you give me credit for voting against a COLA freeze in another case, even though it happened to be

introduced by the Representative in your area.

We can go through the votes if you want to and talk about what one person did or another.

The very first bill that I introduced when I came into Congress was what I called the Social Security Fairness Act of 1979. My feeling was that Members of Congress would not seriously look at the problem we had with Social Security at that time unless we were under it.

It was too easy for us to talk about the Social Security system and not worry about the problems with it because we weren't part of it. I introduced a bill that said the only way to be fair is to make Members of Congress part of it as well.

That was part of the 1983 Social Security Amendment. You can't find my name on it, but I was the person who introduced it. That got incorporated later on.

Senator, what I have done in Congress is to work to improve what I think to be the country that I'm a part of and the government that I'm a part of. I do not always take credit for every idea that I have come up with that has gotten through the halls of Congress.

Maybe that's to my detriment as I stand before you because you have a list that says that I haven't done things that are important. I know what I've done. My colleagues know what I have done, and outside groups, objective groups,

non-partisan groups, groups that don't have a particular special interest in mind have suggested that I'm an effective Congressman.

I will stand by their judgment.

CHAIRMAN ROBERTI: We will now proceed with the next section for today.

Mr. Henry -- we have general testimony. There are no witnesses who want to discuss bond transactions.

We have not structured the Committee hearings in that way. We have structured them on subject rather than by specific powers that the Treasurer has.

We have people wishing to make general comments.

Mr. David Low, Governmental Relations Representative of the California School Employees Association, who was to be here earlier is here now, and we'll hear him now.

MR. LOW: Mr. Chairman and Members.

I'm David Low with the California School Employees Association. We represent the over 150,000 classified school employees in California in K-12 and Community Colleges.

I will be brief. Many of issues we were to bring up were brought this morning, and Congressman Lungren had an opportunity to answer some of the questions already.

We are opposed to the confirmation of Congressman Lungren based not only on his voting record on issues but also how those votes reflect on how he would act as State

Treasurer.

For example, as the State Treasurer sits on the Board of Administration for the Public Employees Retirement System, and the PERS Board administers the retirement benefits for over 200,000 classified school employees, they make decisions on investment of the funds, administration of the health benefits system, controlling all aspects of pension payments for over 200,000 classified employees we have in the system.

We are concerned with Congressman Lungren's votes such as his vote for increasing the Social Security eligibility from 65 to 67, his vote against raising payroll taxes to fund the long-term Social Security deficit, and his to vote against ensuring minimum benefits for Social Security beneficiaries.

The PERS Board also takes positions --

CHAIRMAN ROBERTI: What was the last one?

MR. LOW: His vote against ensuring minimum benefits for Social Security beneficiaries.

The PERS Board takes votes supporting or opposing Legislation. We often go before the PERS Board for support on bill we carry.

Congressman Lungren's record leads us to believe that he will advocate against Legislation that we carry to ensure adequate retirement benefits for our members and

beneficiaries.

Also as a labor union representing classified school employees, we cannot close our eyes to Congressman Lungren's voting record on labor, civil rights, education. We know that the powers of the Treasurer are vast. We must be concerned about how he will utilize his powers as State Treasurer such as issuing of bonds where he may disagree with particular programs.

The only record we can rely on is his voting record in Congress. He voted against reauthorizing 11 expiring education programs, which included adult education, bilingual education, impact aid, immigrant education, the asbestos school hazard detection act. He also voted to cut funding and limit authorization for child nutrition programs, the school lunch and child nutrition act.

While nobody can predict how Congressman Lungren will act as Treasurer, we must rely on the same criteria we would had he been running for the office of State Treasurer, and based on this criteria, we oppose Congressman Lungren's confirmation and ask you to vote no on the confirmation.

CHAIRMAN ROBERTI: Thank you very much.

Any questions?

Hearing none, the next witness is Henry Der, Executive Director of the Chinese for Affirmative Action, and the Former Chair of the State Bar Legal Services and Trust

Fund Commission.

MR. DER: Senator Roberti, Members of the Committee, thank you for the opportunity this afternoon to provide comments and observations about Congressman Dan Lungren's nomination as State Treasurer.

For the past fifteen years, I have had the opportunity to work with numerous citizens and public groups and other interested parties to increase and enhance educational opportunities for the citizens of this state.

Needless to say, since the early 1980's, members of both major parties in California, virtually every citizen group, interested parents and students all recognize that education has to be the number one priority in terms of state attention, funding, and consideration in order for our state to maintain it's leadership role in our country, if not in the world.

Even though the position of the State Treasurer does not have a direct relationship with education in the classroom, the position of the State Treasurer none the less through its chairmanship on the Educational Facilities Authority, the School Finance Authority and the Student Loan Authority has a role to provide leadership, vision and insight into the educational initiatives of our state.

Very briefly, it's no secret that in the State of California over 500,000 of our public school children are

limited English proficient. This limited English proficient population exceeds the state public school enrollment in 26 states in the United States of America.

Over three million of our adult citizens in our state are functionally illiterate. We have the largest public school class size in the entire nation. Clearly, we rank very low in terms of per capita expenditure for public education.

Most recently I just finished service on the State Commission for the Review of the Master Plan for Higher Education, and clearly one of the issues that I learned as a result of that Commission was the inadequate funding for the over 100 community colleges for the State of California. By the way, 85 percent of all minority students who go on to higher education, in fact, attend the California Community colleges.

Further on, in our state, if we look at the University of California eligibility rate for under represented minority groups, Blacks, Hispanics and Native Americans, their ability to matriculate into the University of California is deplorably low. For Blacks and Hispanics, the eligibility rate is barely five percent.

Lastly, and probably very important, over one-third of all full-time students in our universities and colleges in the State of California, public and private, come from families with incomes of less than $25,000 a year, students

who need financial assistance or the assistance of student loans to gain access to higher education.

Given these problems that the citizens of California face, clearly education has to be an area that every Californian must embrace whether we're Republicans, Democrats or Independents.

We must fund education so that every citizen has a chance to be productive members of our society. Consequently, when we look at Congressman Dan Lungren's record in the U.S. Congress on educational issues, his voting record demonstrates that not only has he opposed adequate funding for K-12 education or assistance for low-income students in higher education, but his voting record demonstrates that he, himself, is in the minority of his own party. He's not in the mainstream of those Republicans who feel that education is a worthwhile priority with regards to Legislative attention and Legislative funding.

In the area of K-12, during the past two years, Congressman Lungren joined a small minority to oppose major appropriation bills in '86 and '87 for funding for K-12 education. In fact he joined a handful of his fellow Legislators to reduce the funding that was being proposed, reduce it by percentages of 8 and 9 percent.

In the area of higher education, there was a major legislation that was introduced by our own Congressman

Augustus Hawkins, or he was part of the effort I should say, HR-3700 in 1986, which was the Higher Education Amendments of 1986, and this provided a significant infusion of money to assist higher education institutions, and specifically with HR-3700, it included specific provisions with regard to Title III with regard to the Higher Education Act, to target Black Colleges in the Deep South, but more importantly for those of us in California, to provide funding and financial assistance for those communities colleges and public universities and colleges, such as Domingos Hill and San Francisco State, that have large impacted minority enrollment.

Again, with regards to HR-3700, Congressman Lungren joined a handful of minority Legislators to oppose that significant funding bill. Similarly, he also opposed Senate Bill 1965 that would have reauthorized federal student aid for a five-year period during that particular year.

As a citizen of California, it saddens me to see that Legislators who hopefully understand the problems of the state, not only in terms of poor educational achievement, but the real challenge we face as Californians in terms of competition.

Clearly, even these bills that I have referred to is not enough. I, as one citizen, cannot believe how a Legislator cannot even think of putting us at an equal footing with other people in your country much less not give any

consideration as to the challenge that our students, our children must face in the years to come.

The work that has been done by State Senator John Garamendi, in the Joint Legislative Committee of Science Technology, during the last two or three years have clearly pointed the way that our state has lost its competitiveness, and his committee rightly pinpointed that the only way for this state to regain our competitiveness in terms of management, operations, and the like, is through education, the adequate funding of education.

In closing I would like to make one other statement on Legal Services. As the introduction sighted, I had the privilege to Chair the Legal Services Trust Fund Commission, and I don't want these hearings to be totally pessimistic or bleak on Congressman Dan Lungren.

I would like to take this opportunity to congratulate him for one thing. It was because of his opposition to funding for legal services, twice he voted against funding for LSE, to gut it completely, and in successive years, in the early 1980's, he voted to reduce funding for LSE. It was because of that particular position of being totally insensitive to Legal Services to the poor, that this State Senate, through the good leadership of Senator Petris that you created the Legal Services Trust Fund Program to make up for what President Reagan and his administration

tried to do in terms of gutting legal services for poor people in our country.

It's because of this bill that over $12 million a year is being allocated to support legal services programs in our state. I think that it's important to understand that state leaders, Federal Legislators, state representatives must continually demonstrate compassion for the poor, for those that are disadvantaged, and, maybe more importantly, to recognize the importance of equality under the law and the importance of education as the equalizer in our society so that all citizens, white, black, brown or yellow, will be treated as equal citizens and become productive members of society.

For that reason, I come before you to urge you to deny the confirmation of Congressman Dan Lungren as the State Treasurer based on his legislative record.

CHAIRMAN ROBERTI: Thank you, Mr. Der.

Any questions for Mr. Der? Appreciate your testimony.

The next witness is Honorable Arcadio Viveros, Mayor of the City of Parlier.

MR. VIVEROS: Good afternoon. Senator Roberti and Members of the Committee.

I am Arcadio Viveros, Mayor of the City of Parlier. I'm here to testify and voice my concerns regarding the

appointment of Mr. Dan Lungren, Congressman Lungren, to the State Treasurer's office.

Parlier is the poorest community in the State of California. As a matter of fact, in Fresno County, we have three of the poorest communities in the State of California.

The reason why I'm here is about a week ago a group of us elected officials in Fresno County got together regarding this very same subject along with other Hispanic leaders in Fresno County.

We felt that it was important for us to voice our opposition to the appointment of Congressman Dan Lungren to the State Treasurer's Office. As a citizen of this country and as a registered voter, I would not be allowed to vote for the State Treasurer of the state if it was Mr. Lungren.

I feel compelled to share my views on this nomination. I have reviewed Mr. Lungren's background, particularly his qualifications to serve as Treasurer, and have serious reservations about his experience and training to carry out the responsibilities of this office.

I'm not aware of any experience he has had in managing personnel and investigating millions of dollars which would require a famous Treasurer of California. A member of the ethnic minority, I'm Hispanic, and I'm very sensitive and aware of claims that my ethnicity has been responsible in securing employment at not qualifications and ability.

Having had to deal with such attitudes has instilled in me a desire to be fair and but firm in assuring that individuals be qualified for employment.

It's no different in this particular appointment. You have to make sure that the State Treasurer is qualified.

I'm supporting California and attempting to be thorough and fair in assessing the qualifications of Mr. Lungren, but today, I must indicate to you that I have serious reservations with a lack of clear provocations that he has to carry out the duties of this office.

I have reviewed the Congressional voting record as many of other individuals testifying before you. I am concerned and perturbed with the voting pattern.

SENATOR CRAVEN: Excuse me.

CHAIRMAN ROBERTI: Mr. Viveros, Senator Craven has a question.

SENATOR CRAVEN: Mr. Mayor, a question of you, if I may.

Are you referring to the office as an elected office? You are I presume?

MR. VIVEROS: Yes.

SENATOR CRAVEN: When you talk about this entire menu, you're referring about the elected office, Office of Treasurer of the State of California?

MR. VIVEROS: Yes.

SENATOR CRAVEN: Can you tell me what the test is for elected office in the State of California?

MR. VIVEROS: What is the test?

SENATOR CRAVEN: Yes.

MR. VIVEROS: If you run for office, you run on your own merits, and if the voters of the state decide to vote for you, you're an elected official.

SENATOR CRAVEN: That's what follows. There is a test that precedes that.

What is that test?

MR. VIVEROS: You have to be a citizen, and you have to register to vote, and then file for the candidacy for office.

SENATOR CRAVEN: And you have to be a certain age, too?

MR. VIVEROS: Yes, that's right.

SENATOR CRAVEN: He obviously meets all of those qualifications.

MR. VIVEROS: And you have to appeal to the voters, of course.

SENATOR CRAVEN: Well, obviously.

The point I was going to make is that you said that you did not think he had the qualifications.

In addition to meeting those qualifications which you have just enumerated, he is also a person who has a

Bachelor's Degree from a very outstanding University. He has a Law Degree from an equally outstanding University. Wherein is there a deficiency in his presumed education and background to let him do the job of Treasurer?

MR. VIVEROS: I think we're talking about the responsibilities that come within the office that he would be managing, and that was involving the managing of a lot of money that has to be done in the best interests of the citizens and residents of the State of California.

That's where the test is. As I indicated, I'm not aware of any qualifications that he possess that would make him --

SENATOR CRAVEN: A good money manager?

MR. VIVEROS: Right.

SENATOR CRAVEN: Have you been in Parlier a long time?

MR. VIVEROS: I've been in Parlier about half my life.

SENATOR CRAVEN: Did you question how much money management, background and experience the predecessor Treasurer had?

MR. VIVEROS: In the State of California?

SENATOR CRAVEN: Yes, sir.

MR. VIVEROS: No, I didn't.

SENATOR CRAVEN: Why?

MR. VIVEROS: I did when I voted.

SENATOR CRAVEN: Did you? When you cast that vote you thought, gee, I hope he knows how to balance a check book?

MR. VIVEROS: That's right. And he hasn't had any experience doing so.

SENATOR CRAVEN: Well, doesn't he know how to balance a check book and have a lot of experience doing it?

MR. VIVEROS: I'm talking about having experience in this particular office that would make him a good candidate for this office.

SENATOR CRAVEN: Well, I think he's an excellent candidate.

SENATOR CRAVEN: That's your opinion. I don't think he's an excellent candidate for this office.

SENATOR CRAVEN: Why? Based on the lack of experience which you have failed to indicate to me?

MR. VIVEROS: That's right. I have not discovered any compelling reasons or experience that would indicate that he is extremely qualified for this office.

SENATOR CRAVEN: Very well, thank you.

MR. VIVEROS: Thank you very much.

If I may continue, i recognize that he will not be voting on such policy matters that would indicate issues regarding the immigration or voting rights or legal services

or several other issues that is not in that office responsibilities.

What I am concerned about is the attitude that he has demonstrated in his voting record in Washington. I'm concerned about specifically the money that he has to invest and that attitude that he would carry in specifically programs such as housing.

In my community in recent years, we have tried to address the needs of the individuals who do not have money to own their own home nor to rent a place for them to live in.

I think, for example, the CHFA, the California Housing Financing Administration that the state has has tremendously helped my community and other communities in the Valley to try to address the needs of housing for those moderate income and also the poor people.

SENATOR CRAVEN: May I interrupt you again?

MR. VIVEROS: Sure.

SENATOR CRAVEN: Now, you're going to have to tell me about the housing financing and so forth.

Since you know the interworkings and the machinery of the office, is that basically something that the Treasurer does at his own initiative or is that something that somewhat comes to him secondhandedly?

MR. VIVEROS: I'm concerned that if he does not like to meet the needs of the poor people, which he has clearly

indicated in his voting record, that he would try to divert some of those monies away from financing homes for the poor, and that's the concern that I have.

SENATOR CRAVEN: If he had a Legislative Mandate to do the contrary?

MR. VIVEROS: If it's a Legislative Mandate he cannot, but within that office I'm sure he has a lot of discretion into areas that he fits, he could have impact.

I'm scared for the fact that if he does not like the program, that he would do his best to introduce Legislation, if he so desired, to have you change some of those policies.

SENATOR CRAVEN: Do you have discretionary judgment allowed you as the Mayor of the City of Parlier?

MR. VIVEROS: Yes, I do.

SENATOR CRAVEN: Do you take action that fly in the face of good political judgment?

MR. VIVEROS: Do I take actions?

SENATOR CRAVEN: That fly in the face of good political judgment?

MR. VIVEROS: I take action and take into consideration the needs of my community and the best and general benefits of the community as a whole.

SENATOR CRAVEN: What gives you the reason to suppose and presume that he would not act in the same manner since he, like yourself, is a man of good conscience?

MR. VIVEROS: I have read his background in terms of the voting record, and it's clear to me what his whole goal and objective is as a Legislator in Washington, and to support programs in the nation and voting, and every single program that the President had wanted to do in guiding the social program.

By example you can pretty much determine what type of person a person is.

SENATOR CRAVEN: You're aware of his work in the immigration field and with minority people?

MR. VIVEROS: I'm aware that he was involved in the immigration bill. There are certain areas in that I do not agree to in that immigration bill, specifically that's the H-2 programs that will import laborers from outside the country to work in the fields.

Where as in our own areas we have a high unemployment area and high unemployment rates, specifically in Fresno County is reaching at times to 19 percent. That's something that we have to evaluate.

SENATOR CRAVEN: Is that something that really you're referring to, is that a federal issue or more localized and may even smack of being an issue involving labor and union.

MR. VIVEROS: Well, it is an issue of people that do not have jobs, and particularly in the Hispanic community, we

have the highest unemployment rate in our community because there is no system in our communities in the valley that will bring jobs. There is hardly any assistance from the Federal Government to create an environment to create jobs.

For example, the revenue sharing program was taken out, was gutted out.

SENATOR CRAVEN: Are you saying, Mr. Mayor, that you have more people in your community, in your city, than you have jobs available for them?

MR. VIVEROS: That's true.

We're talking about Parlier is 99 percent Hispanic, a community that lives on agricultural industry.

SENATOR CRAVEN: What is your population?

MR. VIVEROS: 7,000. It is the fastest growing community in the State of California, second to Palmdale.

SENATOR CRAVEN: You've got our work cut out for you then, obviously.

MR. VIVEROS: As I said before, we in the State of California are reaching 40 percent population, minority population, that comprises of Blacks, Hispanics and Asians.

I feel that if we are ignored in our needs and the needs of our people, that the State of California, it will be the same franchise of the grayness that the state is. We, all people and citizens, should have the same rights and same opportunities as anyone else in this country to come ahead.

We should not approve the appointment of Mr. Lungren because I think that with his attitude would be the same franchise even further.

Thank you for your time.

CHAIRMAN ROBERTI: Thank you, Mr. Mayor.

The next witness is Mr. John Gamboa, Chair of the Latino Issues Forum of San Francisco.

MR. GAMBOA: Thank you, Senator, and thank you Committee.

First of all, I'm not the Chair of the Latino Issues Forum, I'm the interim director of the Latino Issues Forum. It's an umbrella organization composed of leaders of the major Hispanic organizations in the state including the two largest membership organizations GI Forum and LULAC.

I want to thank you for the opportunity to address this body today. My testimony will be very brief.

I'm very unhappy that my first opportunity to address a body such as this will be to try to convince you to deny Mr. Lungren the position of State Treasurer.

It's not in my nature to publicly criticize another human being, but I really feel that appointing Mr. Lungren is a mistake that will negatively effect the health and welfare of Californians, and I mean all the citizens, the minority population and the majority population, the young and the old, and especially the poor.

Mr. Lungren has shown by his Congressional voting record against the California minorities that he's willing to mortgage California's future. It appears to me that he has taken a negative position on virtually all bills with programs that would improve minorities and the poor's ability to improve their lives and increase their income.

He has acted toward children, especially poor children, in my estimation, worse than Scrooge did towards Tiny Tim before the visits of ghosts.

Mr. Lungren does not possess, what I feel, a balanced need for a state leader such a State Treasurer.

His record shows that he places the defense industry much before he does children's lunch money. His record against poor children includes voting against nutritional assessments of our population, cost of living adjustments for school lunches, educational appropriations, increasing day care programs for working parents who can't afford adequate day care, emergency school aid which would support federal assistance for school desegregation, financial aid for students, foreclosure relief for unemployed veterans, emergency assistance for the homeless.

His record against poor children also includes voting for reduced funding for education, cutting food stamp funding, reduced funding for low-income housing. The results of this record against children, especially poor children and

minorities, will be felt very soon negatively by all Californians, but especially by our elderly.

It is estimated by demographic experts that by the year 2030, the elderly population in California will increase over 200 percent.

In contrast, the working age population in California will only increase by 50 percent. The ethnic composition of the working age population will also change dramatically. Two-thirds of the working age population will be minorities, and two-thirds of the minority working population will be Latino.

In 1985, the elderly dependent ratio was 164 elderly for every 1,000 working age persons. In the year 2030, the elderly dependency ratio will be 357 elderly for every 1,000 working age persons.

The Anglo will compose the majority of the elderly population, two-thirds of it. And the majority of the working age population will be like I said, minority, two-thirds.

That could be generally said that the elderly Anglo will be dependent on the earning capability of the working age minority.

It could also be said that Mr. Lungren's attitude toward the underprivileged as expressed by his voting record is extremely shortsighted and dangerous to the future of California, especially the elderly.

It's estimated that just the public funded portion of support for the elderly will grow 700 percent from 1980 to 2025. My feeling is that the decision the minorities make about their willingness to support the elderly will be heavily colored by the treatment they receive by society in the years now to the year 2010 or 2030.

Congressman Lungren's voting record against them will certainly be one factor. How large a factor depends on what happens now.

By appointing Mr. Lungren to Treasurer will show minorities that you're willing to reward the type of voting record, my feeling anyway, that Mr. Lungren has.

So, I ask that you do not appoint him to a position that he could not be fairly elected to if the opportunity was given to the state.

SENATOR CRAVEN: Mr. Gamboa, if I may?

You indicated at the outset that you are, in fact, a charitable person by virtue of the remarks that you made, and yet strangely you're not willing to share any charity toward the nominee today.

You have taken your weapon and with a scatter shot, you just bounced the pellets off everything that you could find.

I just wonder how much of the background of those things of which you have been critical do you really know

and/or understand? You've got to understand, and I'm confident ^ that ^ thank you'll agree with me, that Mr. Lungren has Latinos, children, underprivileged people and poor within the district he represents. They may not be the majority, but they're certainly there.

You must also presume, or I will, that a lot of those people are voters. I don't understand and view and in face of the fact that the Congressman has been elected five times, and during the course of his service in the Congress of the United States, he is been designated by a national non-partisan publication, a publication that will take on Democrats as well as Republicans, and he has been declared to be one, in their judgment, one of the future leaders in this country.

I can't understand if he was doing such an abysmal job, and if he was the ogre which you have painted him to be, how in the hell he gets elected.

MR. GAMBOA: That's also a surprise to me, Senator Craven.

SENATOR CRAVEN: We share something in common.

It just does not make what I would call good sense does it?

MR. GAMBOA: It does not appear to be.

SENATOR CRAVEN: Then one of us is wrong somewhere along the line, or we're overlooking something.

MR. GAMBOA: Mr. Craven, I hope that time doesn't show that you're wrong by appointing Mr. Lungren to this position.

SENATOR CRAVEN: Well, I thank you for those remarks.

You know, as I said in my outset referring to your words, you showed charity, and I'm willing to have that charity. You know they say there are three things, faith, hope and charity. The greatest of these is charity. I'm not going to factor out hope, and certainly I'm not going to overlook faith because I have the faith in the man, his background.

There is nothing in his make up that would indicate or move or veer him in the direction of so many of the indictments which you have leveled against him. None at all.

He is a man, in my judgment, as little as I know him, and I don't know him well, who I think is a person of compassion. He is a person who I think has all of the characteristics that you would hope to find in an elected official. I really feel that sincerely.

MR. GAMBOA: Mr. Craven, I did not take this position very lightly. It was a review of his voting records that led me to this position.

I'm sorry we disagree.

SENATOR CRAVEN: I'm sorry, too. I'm sure that in

his rebuttal the Congressman will pick those things up, I think as he has done heretofore, rebut it with a great deal deal of aplomb.

Thank you, John, for your testimony.

CHAIRMAN ROBERTI: Thank you, Mr. Gamboa.

Finally, our last witness -- well, our last witness on the schedule is Mr. Arnold Torres, the Former President of the League of United Latin American Citizens.

MR. TORRES: Mr. Roberti, before I begin, I want to express my appreciation to the Committee and compliment the Chairman of the Committee and the Members for sitting here the whole time.

I testified at least 20 times in Washington on confirmations of Mr. Reagan's nominees, and usually we only had one. So, contrary to the charges of unfairness, I must say that you all have been here a great deal of time and I very much appreciate for that fact.

CHAIRMAN ROBERTI: I might point out that it's a self-serving statement, thank you, that we are here, and it wasn't according to our original schedule. Our original schedule was to go the first week in February, but out of deference to both the administration and Congressman Lungren, we postponed that by two weeks, even though if the assumption is made that there are a lot of Democrats opposed to the Congressman's confirmation, that gives us much less time to

pursue a so-called Democratic position of opposition.

We put it off for two weeks. I appreciate your comment because it gave me the chance to make mine.

MR. TORRES: I also wanted to say, and I think that the Congressman would agree with me, in the Senate nominees don't have a chance to rebut as extensively as Mr. Lungren has and to show his articulate wares and the weapons that he has at his disposal.

In the six years that I represented the League of United Latin American Citizens, the country's largest Hispanic civil rights group, in Washington, I had, most of time I would characterize it as, the privilege of working with him; often times against him.

But I think that in the last day and a half that he's been with you, as well as before the Assembly, I think he has definitely demonstrated his formidable weapons and his abilities.

I have to say that Mr. Lungren is one of the best prepared Members of Congress that I ever dealt with. That could be a sad commentary on other Members of Congress or, in fact, as I mean it to be, a very strong compliment to Mr. Lungren.

I think he's demonstrated that today and yesterday. He is very well prepared and has always been. He has always provided access to those of us who had differences with his

opinio and his votes.

I have no complaints with regards to that. I would never personally characterize him as a racist.

I indicated at times the many, many arguments we had on the cable news network, over the 20 or 30 time I testified before his subcommittee, that he was supporting things that in our opinion were somewhat along the lines of bigotry, but I never would say that Mr. Lungren is a bigot or Mr. Lungren is a racist. I do not believe that under any circumstances.

I do believe, however, that there are certain things that I would like to bring to the attention of the Committee based on six years of working with Mr. Lungren, based on six years of knowing what his record is.

I'm not concerned about how people rate him. I think that the fact that people regard him as one of the outstanding Members of Congress, I think that is probably very well merited.

I'm not concerned whether the AFLCIO votes against him and says that he's only got a 10 percent rating. Voting tallies are, in my opinion, very relevant to some extent.

I think more tallying are the comments that he makes, the rationale that he uses in explaining his votes and the things that he's done in the past.

That's what brings us to the concern that I want to bring to this Committee. Mr. Lungren has indicated to you

today that he thought you want fiscal responsibility, that you want someone who has job responsibility, that you want someone with integrity, someone who is proud of the job that they have executed and hope to be executing in the near future.

But unfortunately, what Mr. Lungren has not indicated is that you also want to have a person who is receptive, responsive, open and willing to actually incorporate perspectives of people that do not necessarily conform to his view of the world.

Mr. Lungren is probably one of the most adept people at being able to respond to criticisms or to concerns that have been raised on the records yesterday and today. And as I am about to leave, he may chose to ignore what I've said, or he may go into an extremely long and very articulate explanation of why he's done what he's done.

It is unfortunate that he and I could could not debate these issues, because he and I had extensive time together on the Voting Rights Act on Immigration. The reason why these two issues are very important is because they illustrate, in my opinion, a tendency that he does have, which is of concern should he be confirmed as Treasurer.

Mr. Dan Walters of the Sacramento Bee and other outstanding journalists of this city and this state have not been able to make the linkage of what Mr. Lungren has done and how he has voted in the past with his job as Treasurer of the

State of California.

Mr. Lungren, if in fact he is confirmed by you all, will be the Treasurer of all Californians, not of his Congressional District, Mr. Craven, but all Californians.

In that regard, the number people who are poor, the number of people who are Hispanic, the number of people who are Black, the number of people who have a lot of concerns with some of the things that he has done, increases significantly, Mr. Craven, significantly.

I think that may be one of the reasons why he has always been elected, and also he's very well prepared.

SENATOR CRAVEN: Well, I don't think philosophy is changed by a virtue of volume.

MR. TORRES: No, sir. I'm not saying that they do. What I'm trying to say to you is that by virtue of the fact that he becomes the Treasurer, he's not the Treasurer of the Congressional District that he represents now. He's the Treasurer of the of California that has, in 1980 had, according Population Reference Bureau, 32.3 percent minorities in the State of California.

In 1990, over 40 percent of this state's population will be will be minorities. What I'm trying to say, and I think it has been brought out repeatedly, and I'm not going to belabor his votes on education, immigration, all of these other things. What it shows to me, and this is what always

concerned me when I had to deal with him -- he would talk to me. He would meet me outside of a hearing room, on the Floor, on the side of the Rayburn room, off the side of the House Floor. No problem. He's very accessible and very willing to get into a banter and get into a long discussion.

The problem is when we would come to talk to him and say, look, we understand your going to have to vote this way on this issue, and I'm not going to belabor it anymore, but would you help us on this one.

There is only one exception that I can recollect in when he did that, and that was on search warrants for agricultural, for the INS to come on to the fields of agriculture in order to do inspections of people's documentation. That was the one thing that I knew if I went to him and said would you support this because you're going to do this other number on us on this other issue, we need you on this one, he would say yes, and he did.

That's the one exception. I think that it -- I do not question Mr. Lungren's integrity.

What I question is, I have my reality, Hispanics have their reality, people who are poor have their reality, people who need legal services have their reality. There is a tremendous amount of realities out there.

What Mr. Lungren, unfortunately, has done, in my opinion, during his tenure in Congress is to somehow insist

that the realities that he has is, in fact, the one that he will impose. He has not been open to somehow incorporating 20 percent of the time, 10 percent of the time, 15 percent of the time.

The perspective of those of us outside of mainstream America have always wanted Wants him to somehow understand. I can go tit-for-tat with him. I know his record. I know what he said on the House Floor. I've got all kinds of stuff here ready to go. You all don't have the time. I certainly don't have that luxury to get into that kind of debate with him.

We had it once or a couple of times on cross fire on immigration on the English issue as well. I don't think it makes much difference what he will say in responding to how he voted on those issues.

I think the most important thing is that he will be the Treasurer, if confirmed, for all of California. How will he somehow -- will he, better yet, change his almost reluctance at times to incorporate the perspectives of people who are not within the realm of his reality? Will he seek to impose his realities on those people who have suffered?

I'll give you one great example of that. The Voting Rights Act Extension. He did a lot of work on that. He may have done more work on it than people would like to believe, and he may not have done as much as he would like people to believe.

Let me give you some facts. 2,800 pages of testimony. Three volumes on VRA. Over 180 witnesses. I don't know how many field hearings you all had. You must have had at least five, I think. Over 160 of those witnesses, Mr. Craven, testified, on the record, saying please extend the Voting Rights Act as it is. Mr. Lungren, before the Assembly Committee, on the record, in fact, it says here -- maybe you can get to the same page. H-6961 of the Floor debate on this issue.

He indicates, and this is what is troubling, he indicates that in response to Mr. Conniers comments, he indicates that I still do not believe all of the angels or all of the devils of this country live in one part of the country or another.

When you put that in the context of the whole debate, when you put that in the context of over 160 witnesses, and I can get the volumes for you, no problem, I can go back to my office. 160 witnesses who said realities, our realities, collectively and individually as human beings has been that we have suffered at the hands of this.

He even goes on to say on that same page that in fact they catalogued a chamber of horrors in many cases which convinced, I think the Gentleman from Illinois, Mr. Hyatt, myself the fact that we needed pre-clearance.

But you see, here's the qualifier. Mr. Lungren

agreed with the concept of pre-clearance. He agreed very wholeheartedly with the concept of pre-clearance. What we he did not agree with was the concept of the people who wanted and needed and were in desparate need of that pre-clearance the way they had experienced it and the way they felt it would actually be of assistance to them.

He turned around and decided to support an amendment that was the opposite of what 160 witnesses told him they needed. That's what is troubling me.

Here is another section, very quickly. Immigration. He indicates, and he said this quite a few time in the years that I was with him, he talked about people living in holes in Southern California. Doggone it.

San Diego County.

SENATOR CRAVEN: I've got them living in my neighborhood.

MR. TORRES: Mr. Lungren and I remember so he knows I won't quote him out of context.

He says that these people are living in holes, that something has to be done. I remember he said that. He said it at least five times on the record in the days that I debated with him, it was a six-year debate on immigration.

And I once asked him, what do you propose to do about those holes? This was not on the record for the hearing, but after his comment. He wanted to support

immigration reform because in his opinion immigration reform and legalization would, in fact, remedy the problem for those people.

Legalization is not going to remedy the problems of those people living in holes, Mr. Craven. No, immigration reform is still not going to remedy the problems of those people living in those holes in Southern California or San Diego County.

What I thought Mr. Lungren would have wanted to do was to institute and have some laws out there that would make sure that people, whether they are legal or illegal, never live under those conditions.

And if you read -- doggone it, I forgot to bring it. I don't have it with me now, but if you had read what I thought was the intensity of his comments, I would have thought that he would have taken that extra step and said, I will lead. I will show and demonstrate and manifest my commitment to this population by taking affirmative steps, not just by supporting what is on the table, not simply by doing everything he could -- and I must give him a lot of the credit for passing the immigration reform bill.

Mr. Mello, in this regard he is excellent. He made this thing go. He revived it in a way that no one else has. I must give him that credit. I didn't like the bill. Never would have supported it, but he gave it that movement, and he

allowed it to pass. But he never once said, okay, I'm going to do something directly to try to remedy that problem.

That's my point. On the VRA and on this issue, illustrate the fact that he has his reality. Anything that is out of whack with that reality, he bristles and says, fiscal concerns, government jurisdiction, intergovernmental relations -- he has and always will be able to explain his votes very well. He is excellent at that.

But if Treasurer, if confirmed as Treasurer, is he going to continue to do that when it comes to student loan difficulties, and all the things you heard before you today and yesterday and the Assembly heard. What will he do?

He's going to say, I will carry out the mandate of the Legislature. I will carry out the mandate of the Governor. That's irrelevant to me. The Legislature isn't going to be governing and overseeing every action that he takes. That's not your responsibility.

And the Governor -- we're not here to discuss the Governor. So, we shouldn't even discuss what mandate the Governor is going to give him.

My concern, as a Californian, not necessarily as a Hispanic, Mr. Craven, but as Californian in a state that is becoming a state of people of color.

Will Mr. Lungren be able to expand his reality and understand that people cannot fit his view. People cannot fit

his perspective, and try to do something that will allow them to come into that mainstream a little bit quicker.

That does not mean he has to always agree with us. He never did, gee whiz. If at least 10 percent of the time he had come with us, I wouldn't be up here today. I would not have come up here today because I like Dan Lungren, and I respect his preparation and his intelligence, and and I wish other Members of Congress were just like that as well when I was there.

I'm troubled by the things I've told. I hope as you go about your business of deciding, that it will not be a partisan vote, because you, Mr. Craven, you're a Senator of a district of not just people who share your opinion, you're the Senator of a district that has varying opinions and that Treasurer, and statewide officer must have be flexible in order to have a balance in those opinions.

The concern I've got, once again, is I wonder if he does. I hope as you continue with your deliberations that you may have with the Governor or whatever you all are going to do about -- this idea that this is a partisan fight should be completely removed from the table.

You're all going to be voting for Californians, darn it. You all are going to be voting for people of color who have got a lot of problems. This gentleman is in a position as a result of Mr. Unruh's job, who I would love to criticize,

unfortunately the gentleman has passed away.

Mr. Unruh was not perfect. He was far from perfect. Now, we have the chance to improve to on that model. I generally hope this Committee, and I compliment you again, not because you're a Democrat, but because you have bent over backwards to allow Mr. Lungren to get his comments on the record, and I think that is very fair.

I appreciate your time and indulgence. I know you all want to celebrate, I think Chinese New Year. I'm sorry if we overstepped the boundries or whatever.

I sincerely hope that you will be extremely deliberate in your deliberations. I certainly hope that this idea that is a partisan fight be removed from the table because this is California's future. This gentleman in the position that he may occupy is the very key to that future.

That future includes over 40 percent people of color, and that is a major concern to me as a person of color in California.

Thank you very much.

CHAIRMAN ROBERTI: Thank you, Mr. Torres.

Any questions? No.

Thank you.

We are going to take a break.

We have Mr. Raymond Johnson still to testify from Los Angeles NAACP, and any others in the audience who wish to

speak. Then we'll have a rebuttal from Congressman Lungren.

We'll break for ten minutes.

(Thereupon a brief recess was taken.)

CHAIRMAN ROBERTI: The Committee will come to order.

We have a quorum.

Mr. Raymond Johnson, Jr., President of the Los Angeles Chapter of Jr. of the National Association NAACP.

MR. JOHNSON: Thank you very much, Senator Roberti and other Members of this Committee for the opportunity to appear before you to discuss the appointment of Daniel E. Lungren for the new Treasurer for the State of California.

I would like to point out to you that this is an opportunity that is not taken lightly. We consider it an important issue in the State of California, and one which our branch, and I feel many members of the Black Community wishes us to take a stand on at this particular time.

We are opposed, the Los Angeles Branch of the NAACP is opposed, to Mr. Lungren taking the position as Treasurer, and we seek that you -- request that you vote against his obtaining that position.

On February 10, the Executive Committee of the Branch did meet, and at that time, the Executive Committee voted unanimously to oppose Mr. Lungren for his position as the State Treasurer.

Recently I had the pleasure of meeting Mr. Lungren when he was in Los Angeles. I come here not to advocate him being a racist or him being a bigot in any regard, but here to point out to you the issues which are of very vital concern to us in the State of California, and on a national basis as well.

The Los Angeles Branch is the largest branch on the west coast. We have over 9,000 members. They represent not just Blacks but other ethnic groups and other racial groups as well. We consider ourselves to be in the forefront of the civil rights advocacy here in the State of California. We're also the third largest branch in the nation.

As a result, we are able to receive a lot of information regarding activities in Congress from our national office, and we have a very good relationship with our Legislative Lobbyist in Washington, D.C.

It's our position that Mr. Lungren in this particular case was nominated to fill this position of State Treasurer because of his ideology, and as a result of that, we feel and seek from you that you vote against him for the very same reason.

In 1980, to give you an example of why we feel he's insensitive to many of the views of minorities, particularly the Blacks, in 1980 he voted against the revisions of the Fair Housing Act, HR-5200, which were designed to strengthen the

Federal Fair Housing Laws in this country.

In 1987, before the House Judiciary Committee, he voted against the Hate Crimes Statistics Act, HR-3193. That bill would require the collection of valuable data relating to racial, religious, sexual orientation and ethnic hate crimes throughout this country.

I would like to point out you that this year the NAACP Los Angeles Branch, reported a 150 percent increase in the number of hate crimes against minorities in the City of Los Angeles. 150 percent increase. Primarily race related hate crimes.

I would like to point out that the Los Angeles County Human Relations Commission also reported an increase. Their increase that they reported was was 300 percent. It's very important that a viable common data base bank be developed or implemented in order to record, in order to follow, in order to track any type of racial violence directed towards minorities in this country, especially Blacks.

Without that we're unable to monitor, unable to Legislate in those areas to make sure that the conduct is not curbed. That's why it was very important for this particular amendment and that we receive Mr. Lungren's support.

We did not receive it. As a result, that, in effect, shows that there is insensitivity on his part to really look at and really see the concerns of a very large

minority in this country has it relates to the quality of life, particularly the racial violence directed towards them.

In 1984 and 1987, he supported efforts to decrease or eliminate funding for Legal Services Corporation, HR-4169. Those funds were needed to assure equal and adequate representation by those who can least afford legal redress, the poor and the minorities in this particular country.

Our legal redress at the NAACP has been flooded over the last several years with requests for assistance. We are unable to respond. We are unable to send those individuals, who need the help, who need the assistance, to the various agencies that received funding from the Legal Services Association because their funding has been drastically cut.

Let me point out to you, I'm not a representative, I am not speaking to you as a representative of the State Bar of California. I'm not speaking on behalf of the State Bar of California; however, I do sit on the Executive Committee of the California State Bar as it relates to the Legal Service Commission. On that particular committee, I see first hand the need for continued legal services for minority and poor.

I see the lack of funding that is available and has been available in the past because of the budget cuts and because of actions such as Mr. Lungren which actually hurt the minorities and poor who really need most additional legal services and legal redress.

We don't have that, in part, because of the rhetoric and, in part, because of the philosophy of Mr. Lungren. I would like to point out also in 1981, he sought to weaken the Voting Rights Extension Act, HR-3112, by introducing an amendment to eliminate the requirement for bilingual ballots.

Also, you heard previously through the last speaker discussion as to pre-clearance and his attempt to weaken that effort despite the fact of many, many individuals coming before him and discussing with him the fact that we needed to leave the pre-clearance provisions intact in order to make sure that protections are provided to individuals who might be subjected to voting rights discrimination in various states throughout this country.

In 1984, HR-5490, he voted against broadening the Civil Rights Act of 1984 which would have helped to increase the protection as it relates to race, creed and religion.

In 1985, he voted against HR-1460 which was designed to impose sanctions against South Africa. That's a very, very sensitive subject to Blacks and other minorities in this country, especially to Blacks at a time when we are seeking to educate Blacks as to the problems in South Africa, how the majority of the population in the nation of South Africa is subjected to all kinds of crimes committed by a government who has no respect for life, liberty or self-determination by the majority of the people.

This came at a very unfortunate time. He played a part in trying to defeat the HR-1460.

In 1986, he voted against the override of President Reagan's veto of sanctions against South Africa through HR-4868.

In the area of economic development, he supported the lattice substitute amendment that called for the elimination of the Small Business Administration and housing programs.

I'm a member of the National Boards Economic Development Committee, and as such, I'm very concerned about economic development programs and how they relate to Blacks and other minorities in this country. There is a lack of sensitivity in Congress as it relates to the Small Business Administration and as it relates to economic development for Blacks and Black businesses. We need to strengthen them. We need to strengthen them through more and additional funding.

However, if we were to look at it through Mr. Lungren's eyes, we would find that those agencies, such as Small Business Administration, would no longer be around.

In 1986, he supported the Hiller amendment which reduced by $95 million the amount of direct loan authority contained in the main bill for the Small Business Administration. That is something which really concerns us. We need more funding. We need more availability to the

minority community to mainstream work in the State of California and in this country; and if we don't have additional funding through loan programs, we're not going to get it.

In 1984, he voted to cut funding and limit authorization for school lunch and programs and child nutrition programs and the Child Nutrition Act. That was something again that directly affects the poor and minorities and Blacks in this country.

In 1984, he voted to cut spending for education from $1.7 billion to $944 million.

In 1986, he voted against new aid for protection advocacy programs for the mentally ill.

He demonstrates an insensitivity, not racist, not biased -- excuse me, not bigotry, an insensitivity regarding Blacks, women's and other minorities. These are very important issues in the State of California that concern you say because you will find in your work there will be bond issues relating to the concerns of the Black community.

It's questionable whether Dan Lungren would support bond initiatives in favor of Blacks.

The NAACP voting record of Mr. Dan Lungren while he was in Congress is very poor. If I may point out, in the 98th Congress his record, he received a grade point average of 30 percent. When I was going to school, 30 percent was very low,

and I think for Congress it's still very low, especially when it's related to NAACP concerns.

He voted against the emergency jobs, the rescission relief. He voted against health care of the unemployed. He voted against the Civil Rights Commission, the amendment for removal for cause only. He voted against the Community Renewal Employment Act. He voted against the ERA. He voted against emergency housing. He voted against the child nutrition programs.

In hte 99th Congress, he received a grade point average of 40 percent. So his record is very as it relates to the NAACP.

He will be sitting on very important commissions. He will be sitting on and very important boards. He will be chairing many of them. I would like to read some of those we feel are important to the Blacks Community: The California Educational Facilities Authority; the California Health Facilities Financing Authority; California Housing Bond Credit Committee; California Industrial Development Finance Advisory Commission; California School Finance Authority; California Student Loan Authority; the Hazardous Substance Clean-up Committee; the Veterans Debenture Finance Committee; the California Housing Finance Agency. These are some of the examples where we would have serious concerns about Dan Lungren as the State Treasurer.

As has been pointed out, he has been accessible. You can approach him. You can talk to him. He will make himself available. However, he holds and looks at the world, as some of you may have heard, through his own prescription of tinted rose-colored glasses. It is very difficult to pierce that or suggest to him that the tinting color of that needs to be removed, and that you need some clear glasses to really see what the issues and problems are.

That is our concern. He is approachable; however, we cannot get him to come around to support the issues in those interests of those issues to support Blacks in this country, and as State Treasurer, we would have the same concerns.

Based upon that, ladies and gentlemen, we would ask you to vote against Dan Lungren as State Treasurer.

Thank you very much.

CHAIRMAN ROBERTI: Thank you very much, Mr. Johnson.

Any questions?

Hearing none, we appreciate your testimony.

Is there anyone else in the audience who chooses to make a statement this afternoon?

Seeing none, any questions from the Committee?

Congressman Lungren, you may conclude.

CONGRESSMAN LUNGREN: Thank you very much, Mr. Chairman.

I must say that after listening to some of the comments this afternoon it reminds me of what Yogi Baera said, Deja Vu all over again.

I have heard the recitation of my shortcomings more times than when I heard it when my mom used to talk about it when I was a kid.

Let me go over some of them and hopefully not take us too much past the time that we would like to leave.

I guess I just have a slightly different viewpoint of responsible government than some who have spoken. I get the idea that some who have spoken believe that if you're the father and mother of a family and your children ask you for things or your spouse asks you for things as well as your children, and you give them everything that they ask for but you drive the family into bankruptcy, according to the definition of some of the people who opposed me, you're to be considered commendable and compassionate.

But if you look at how much money you have in the family check book, and you realize that you can't give everybody everything. You have to make some difficult decisions and turn some requests down. You're not just Scrooge, according to someone who appeared here, you're, to quote Mr. Gamboa, worse than Scrooge.

I've heard of exaggeration and hyperbole, but I think I've heard of it more loudly or extensively than that.

I don't understand why we as Legislators believe that somehow we are immune to the laws of nature, or I guess you would call them economic nature, that are imposed upon us as individuals or as family members.

I think it's a disaster for me to say to my family, we only have $10,000 to spend for a variety of things. Since you've all requested $20,000 worth of things, I'm going to be the fine parent, and I'm going to give you everything you've asked for.

But according to some of those who criticized me, that's what I should be doing in Congress. You know, you wonder how you get a deficit. Everybody is against the deficit. I don't know if there is anybody on this panel for the deficit.

I know nobody in Washington is for the deficit. Every person running for President of the United States today, and there are a lot of them, both Democrat and Republican are against the deficit. To be American and for Mom and apple pie, and everything else, you have got to be against the deficit today.

The question is, who is going to do something about the deficit? You say yes to every single request that comes down the line no matter how worthy or unworthy, you're going to have a deficit.

I believe we're never going to attack the Federal

Deficit until we realize, yes, you go after waste, fraud and abuse. You can eliminate waste, fraud and abuse. After you've eliminated waste, fraud and abuse, you're still going to have a deficit.

What it means is that you have to look at worthy programs and make some tough decisions. We do that in our family lives. We do that in our individual lives. And yet somehow we say as elected representatives, we're immune from that, and so whatever special interest group wants to come before us, and they're all worthy -- remember, special interest is someone who has a particularized interest. That does not mean they're bad or wrong. We all have particularized interests.

But in total, collectively, we'll drive this country into bankruptcy. I've tried to take a stand against that all the years I've been in the Congress. If you want to condemn me for that, that's fine.

If your collective judgment is that you want a Treasurer not concerned about fiscal responsibility, that's fine. Try and sell that to the voters.

There was a mention here about my position on legal services. I happen to believe that among all the things that the Federal Government is required to do, when you make tough decisions, one of the things you have to look at is are there alternative sources of revenue, and are there alternative

opportunities to provide those services.

I made the judgment that in the area of legal services there is an alternative to the Federal Government paying the bill. One of them is, one part of that answer is a State Trust Fund, which we developed here in California, where otherwise idle trust fund money held by attorneys or dedicated to the expenditure on behalf of attorneys doing work for those who cannot afford an attorney.

The second element of that is the change of the legal profession. From the time I've been in Congress to the present time, we've seen a drastic change in the legal profession.

You can virtually go to a hardware store now and see a store front attorney. They advertise on television. They have available facilities now, statewide, some across statelines. Some of us who are attorneys may not like that. We may think that we ought to be considered professionals. We shouldn't have commercialized the profession, but, in fact, it has benefitted the people because a lot of people have access to the law where they didn't have it before.

The third thing I would say is we ought to have more pro bono work by attorneys. I did it when I was actively practicing law, and I think we all should do it. I think the State Bar ought to consider the possibility of requiring pro bono work by all Members of the State Bar as a condition of

licensure. I don't find that state action as inordinate. I find that state action which is appropriate.

You practice law with a license in the State of California, in part, because you qualify for it, but, in part, because you're given the right to do that under the law. I don't see why conditioning that right on doing a percentage of pro bono work is wrong.

As a matter of fact, if we did that, we would have far more legal services available for the poor people in our state and nation than you have now. You would people in the area. You would have people experienced with working. You would have people who could take cases and deal with the cases on a regular basis.

That's my approach. You may disagree with my approach. I happen to think that my approach is more effective, and, in part, I think California has shown the way respect to that.

With respect to the question of the last comments by the representative of the NAACP. I've already talked about the Fair Housing Amendments. If you would like, we could go through that. I keep being criticized on my vote on an amendment that was 205 to 204. I suppose that means that 204 Members of Congress were out of the mainstream and insensitive, but not bigoted remember, but insensitive, because they had an slightly different approach. An approach

which says the people who charge with violating the Fair Housing Laws who run the risk of having at least quasi-criminal sanctions brought against them ought to have the right to have a judge hear that case as opposed to an Administrative Law Judge in the very agency upon which they are going to be judged.

I'm sure that we all have heard of David Brodder, he's a writer of some note. The Washington Post article of August 17, 1983, referring to comments I made on the Floor of the House in support of Martin Luther King holiday, he said, concluding his remarks on me, in 1981 conservative Lungren played a key role in extending the Voting Rights Act. He doesn't say worked to lessen it. He doesn't say worked to weaken it. He doesn't say got on the train after it was already going.

He said, in 1981, conservative Lungren played a key role in extending the Voting Rights Act. That's not a special interest group talking. That's not a Republican or Democrat talking. That's David Brodder who I had always thought was considered to be a reasonable interpreter of political events on the national scene.

With respect to the Hate Crimes Statistic Act, I've mentioned to you time and again what that is. It doesn't work. If I thought it worked, I'd support it. With respect to the question of violence against gays and lesbians, I was one

of those who stepped forward and said that that ought to be included in a bill if we're going to have such a bill and got credit for that in Washington where it happened, even though it's difficult to get credit here when you've done that.

With respect to the Voting Act Rights and changing the pre-clearance, the statement was made that we should have left the pre-clearance the way it was. If that's the case, nobody should have supported the Voting Rights Act. An essential element of the extension of the Voting Rights Act was to create a pre-clearance provision, the Pre-Clearance Provision Amendment which allowed people to come out from under it. It was an existing pre-clearance in the Voting Rights Act that was to expire. It would have expired. The question was how did you get an opportunity to extend it? You extended it by making one significant change in it, allowing certain jurisdictions that had proven good faith over a considerable period of time to come out from under the pre-clearance provision.

I made the statement that Mr. Torres related to you. By the way, he stopped on the way out and assured me that his testimony was not to be taken against me.

I hope you all understood that. He said he wanted to make very clear. He was neutral. He confessed surprise that I would suggest that it came out any other way. That's just by-the-by.

Mr. Torres was talking about the question when we were dealing in the area of the Voting Rights Act about the pre-clearance as well. All I can say to you is that I worked to make sure that we passed it.

He quoted me as saying on the Floor of the House, "I don't believe all the angels and all the devils live in a particular part of the country."

I try not to categorize people generally. I try not to categorize people by their race or their creed or their color or what group they belong to. I happen to think one of the mistakes we make often times as elected officials is we tend to look at people as groups rather than individuals.

My point on the Floor of the House at that time was there are good people of good will in the South as well as other places. They have control of process. When they, over a period of time, make changes in the process, when they have made make progress, when that progress has become permanent, not temporary, they ought to be recognized for it, and that probably will encourage other people to change the way they act so that they, in fact, will stop discriminating, so they, in fact, will change some of the policies that we'd seen, and they would, in fact, eliminate the parade of horrors that many of us saw.

I find it interesting when my friend Arnold Torres was talking to you and saying to you, he didn't oppose me, by

the way, but also saying that he could never get me to go their way. There was a specific instance where I changed. I came in with some question about whether we should continue with the application of the Voting Rights Act that had been on the books for 20 years because it was passed as a temporary measure. It was after I heard the testimony that I was convinced of the fact that we had continuing problems in the South, that I supported it, and that I played a key role in extending it.

He also says that you can't get me to sit down and work with groups other than myself. I don't know what that is supposed to mean. I guess that's supposed to mean other than Catholic, other than white, or other than from a family of seven kids, or other than Long Beach, or other than from the Governor's particular area. I'm not sure exactly what it means, but again, it seems to categorize people from where they come from.

Let me just share a letter I received from the Director of policy of Analysis from the National Council of La Raza, on June 26, 1986.

Interesting enough, his last name is not one that appears to be Hispanic, Charles Kamasaki, Director of Policy Analysis for the National Council of La Raza. He writes it to me on that date: "Just a short note of appreciation for your support of the Schuman Amendment," Congressman Schuman,

Democrat from New York, "clarifying document verification under employer sanctions. As you know, we promoted," referring to La Raza, "the Amendment because we believe that it furthers and implements the uniform verification concept that you and other proponents of employer sanctions have argued will reduce the potential for discrimination.

"I was terribly impressed with the sincerity and conviction of your statement supporting by the amendment, having just gone through what some might describe as a brutal final day of mark-up, and at that late hour, you cannot know how appreciative I was for your support.

"Given all the given, the identity of the sponsor, the difficulty he had explaining the amendment, understandable tension and interpersonal dynamics of the situation, et cetera, I found your strong support very gratifying.

"You've always had a reputation for personal and intellectual integrity. I now see that this is well-deserved. With respect and appreciation, Charles Kamasaki, Director of Policy Analysis, National Council of La Raza."

Two months ago, I was requested both by telephone and by letter, to be a member of the dinner committee for the annual fundraising drive for MALDF in Los Angeles. When I told them I would be happy to do it, I was told by the President of the organization if I could possibly attend, they would

honored if I would be sit at the head table with her.

I don't understand how they ask somebody who is so evidently devoid of concern for people of color to do that sort of thing. I take them at their word when they invite me as a honored guest that perhaps they have some respect for me.

Mr. Der, who represents here one organization, but also is part of an organization who sent out the first press release against me. Part of an organization, Californians for a Responsible Government, sent out a press release talking about the very same things you heard today, how I'm not qualified, how I'm insensitive, and listed there are all of the people who are against me. One of the groups they list as against me to show my insensitivity to minorities was the Vietnamese Student Association from the University of California, Davis.

I was kind of surprised at that because of all the work that I have done with the Vietnamese throughout Southern California and the country in resettlement.

I received this letter from that same organization which, according to Mr. Der and the press release, he and Mr. Cetes sent out and others sent out was against me.

I received this particular letter "Dear Congressman Lungren, we the Vietnamese Student Association of the University of California, Davis, would like to send you warm

congratulations for being the Governor's nominee for California State Treasurer and best wishes on your upcoming confirmation hearings.

"As refugees, Vietnamese students are grateful for your distinctive leadership in the United States House of Representatives in fighting to retain and improve many vital assistance programs for refugees. We owe our successes, as well as the successes of our community in this county in part to your compassion and commitment to refugees.

"Besides being a dedicated friend to the refugees and immigrants, you've also been a distinctive leader for all Californians. Your record of conscientious legislation based on just principles attest to your high qualifications to be California State Treasurer.

"As California citizens, the Vietnamese students at U.C. Davis hope to be part of the grassroots support for your confirmation. Once again, we wish you to best of luck in your hearings, and hopefully in your new job as our State Treasurer. Duk Ti Yo, President Vietnamese Student Association, U.C. Davis."

This is one of the people listed in the press release that Mr. Der and others sent out against me to show my insensitivity to those who happen to be minorities in this country, particularly Asians.

I wonder how much he knows about me, and how much he

knows about those who support me or who are against me.

He suggests that one of his concerns are city colleges, community colleges and their importance to California. He suggests that somehow I'm not supportive of that.

I don't know where he gets that. My mother completed her education at Long Beach City College. My wife, whom I met at Yosemite, after her father died while she was in high school in Inglewood, attended El Camino College while she happened to be working two to three jobs to support herself and her widowed mother. My wife graduated from El Camino College, changing her major from math to secretarial science because she needed a more practical immediate job so that she could take care of herself and her widowed mother.

My then attended Long Beach University where she still is at this point in time, on senior status, as someone in the accounting field.

She worked her way through school. Her senior year in high school she spend half the day working and half the day going to school. And you suggest to me that I don't understand what it's like for people who are other than privileged.

The Mayor of the community of 7,000 criticizes me, a person who represents over 550,000 people and have been for 10 years, for my lack of qualification. I don't know how to

manage money.

I'm part of a largest corporate board of directors in the world. We make decisions on the largest budget in the world. Sometimes I'm not very proud of fact that we have the largest budget in the world, but we do.

I have specific responsibility for part of that budget. It deals with the national security interests of the United States, as well as all the courts, as well as the Justice Department, the FBI, the DEA and others. I do not understand how people can say that I don't have any ability or experience in managing money.

I understand that people have a right to go through all this, and I would be happy to go on the question of divestment and SBA and everything else. I understand according to the script that we're to discuss those issues tomorrow unless something had changed.

I would ask the Chairman, are we going to have a perspective on Human Rights/Equal Opportunity tomorrow? Or am I to discuss it here today?

CHAIRMAN ROBERTI: It's scheduled for tomorrow, and I think that would be appropriate.

CONGRESSMAN LUNGREN: Thank you.

I would also say with respect to the question raised by Mr. Torres and others that I cannot go outside myself, that I'm confined by my experiences. I told you yesterday, if you

want to go find major agriculture in my district, you're not going to find it. I did not have any need to look after the interests of California agriculture to support my political base. I did it because I thought it was right for California.

I went out of my way to find out something that had very little letters to do with my own district because I thought it was important for California.

I've said before, I have a large number of Cambodians in my home town, but because of the actions of you gentlemen and gentlewomen of both this body and the other body, most of those people have been taken out of my district. I still felt a need to service them as best I could.

I don't know how many of the people that have come up here and testified against me joined me down at Camp Pendleton when the Vietnamese were there, arriving as the boat people from Viet Nam, to try and give them simple instruction in the law. I don't know how many of those who criticized me were down there. I didn't recognize them. I don't know how many were down there. I don't know how many crawled through the spider holes in Northern San Diego County to see what kind of circumstances that people have lived in, which is one of the reasons I worked so hard on immigration to try and change the circumstances that give rise to that sort of thing.

I don't know how many votes you get crawling around in those spider holes in Southern California.

Maybe you can tell me.

I didn't have to do that. It's not in my district. Those are people of color. I was concerned about them whether they were people of color or otherwise.

I thought one of the things that I did when I worked and one of the reasons I worked on the Martin Luther King holiday was to show there is a consensus of conscience in this country on the question of civil rights. There is more that keeps us together than separates us on those questions.

I do not understand what benefit is achieved by trying to suggest that if someone is not following the exact remedy that we've come up in terms of our idea about how to handle a particular problem, that makes them insensitive to civil rights.

I don't understand it. I think that's moving us in the wrong in civil rights. You're not going to build a consensus everytime you create a division. I guess you're damned if you do and damned if you don't.

When I support the Voting Rights Act, I was criticized because it was already moving along. When I support an effort to try and come up with a compromise to make sure it passes, I'm trying to weaken the bill.

When I change my mind on the Martin Luther King

holiday and become the first conservative who comes out to support it, I did it for political reasons.

People are entitled to their criticism. They can go ahead with their criticism.

As Senator Roberti said yesterday, you know, you're in the big city. I've been in the big city for the last ten years, Senator.

CHAIRMAN ROBERTI: You told me that this morning.

CONGRESSMAN LUNGREN: I know that we can have criticisms. I just wonder what we do when we try to divide people rather than trying to bring people together. We try and bring up partisanship where partisanship doesn't need to be there.

Where we try and suggest that people are incapable of handling a job, I'll be happy to stand before the voters in less than three years and let them make that judgment. I just find it -- even if I were not the nominee sitting here, I would find it hard to believe that any Member of Congress who had any reputation for competence being criticized and having it suggested that he or she is incapable of being Treasurer for the State of California.

We have a tremendous obligations in the Congress, as you have tremendous obligations here, and I don't denegrate the obligations that you have or the jobs you do here.

I think it's a little silly to somehow suggest that

because we're divided, you're here in Sacramento and I'm in Washington, that somehow you folks would be qualified, any of those of you that sit here to be Treasurer, but any of us who sit in Washington are not, or for us in Washington to say that somehow we're qualified for positions in any administration back there and you folks aren't because you haven't been to Washington. That doesn't make sense and I think we know that.

I hope we'll conclude tomorrow with our final day. I'm glad to see that my witnesses are going to appear. Maybe you'll find that one or maybe more than one may have a good thing to say about me. I hope that you'll be here.

CHAIRMAN ROBERTI: We'll all be here.

Senator Mello.

SENATOR MELLO: Mr. Arnold Torres is still here.

May I ask him to come back up and clarify the statement that the Congressman made make while I believe you were out of the room.

Perhaps I could paraphrase that. He stated that after you left, you went by and said I was not opposing you or words to that affect.

I'm not clear whether you want the records expunged of all the statements you made or whether you were telling him something --

MR. TORRES: Mr. Mello, I think that I came before you as the Former Executive Director, to share with you the

opinions and experiences that I had with Mr. Lungren.

It's really as an individual irrelevant whether Arnold Torres thinks he's fit to serve or not.

I do think, nonetheless, that the opinions that I had to raise to you were of absolute importance for you to consider. That's really the important thing.

The other thing I want to clarify, which I appreciate the opportunity for which you have asked me, and I can come now and clarify, I think that Mr. Lungren has done an extremely effective job now of coming back and not being clear with what his position is. This is the point that I tried to raise to you.

It's very disheartening to hear when he misrepresents things that took place, for example, Charles Kamasaki letter, his action on the pre-clearance on the Voting Rights Act. These are things that are still troubling. Nobody is expecting him to be a Mexican. Nobody is expecting him to vote like a Mexican. Nobody is expecting him to do any of those things, but it's inconceivable to me that he's still wondering why. Witness after witness has raised concerns with his record.

Mr. Roberti did not call and ask us to testify. The Democratic Party didn't ask us to come in and testify. Some of us did it out of conviction of principal and some integrity.

No difference than what Mr. Lungren says motivates him to do the things that he's done. But yet we have at least attempted to balanced and understanding that people are not always going to agree with our perspectives. If that were to be the case, we would oppose Mr. Roberti's re-election because you do not always agree with the things that we would like to have done.

We don't see that flexibility. In regard to my personal opinion with regard to Mr. Lungren being Treasurer or not, is really irrelevant to this Committee.

What it relevant, in my opinion, is the experiences that I had with him, and the perspective that I think that I gave to this Committee. That is really important, and they are not personal derogatory or denegrating comments toward Mr. Lungren. They are, in my opinion, the limitation that an individual has.

SENATOR MELLO: All the statements you made on the record are in opposition to his confirmation and you are opposed to him, opposed to his confirmation.

MR. TORRES: I don't take a position on whether I oppose personally Mr. Lungren or not. I made that -- I thought I made it clear by the comments that I made that I took no position. It's not up to me to take a position.

I'm not representing LULAC any longer. I'm not representing an institution. I do represent my personal

opinion. My personal opinion I have made very clear. I would have a lot of difficulties and I wanted you to think about those difficulties, and I think it's important. The way I vote as an individual, I will cast my vote, if he gets confirmed and he runs. It is at that time that I have the right to cast my vote and let you know how I think things ought to be. Thank you, Mr. Mello, for asking me to clarify.

CHAIRMAN ROBERTI: Senator Ellis.

SENATOR ELLIS: I was sitting here when you had your exchange with the Congressman during the break. I could not hear, but I got a sense of what was going on.

Would you just say yes or no. Did you come back in during the break and say I was not speaking in opposition?

MR. TORRES: I made it very clear to Mr. Lungren that I did not indicate opposition to him. Now, if you want to come back, Mr. Ellis, and say that that's an affirmative position, then I think that's your decision that's your perogative.

SENATOR ELLIS: If you say now that you came in and told Congressman Lungren that you were not speaking in opposition to him, then you were not speaking in opposition to him.

MR. TORRES: I was asked whether I took a position of opposition to him. I indicated to you just now that I took no position. That's exactly it. That's exactly the thrust of

what I told Mr. Lungren. I took no position.

SENATOR ELLIS: You did not take a position, but you spoke in opposition; is that correct?

MR. TORRES: I think the comments should be interpreted in the way you chose interpret them, Mr. Ellis, Mr. Mello, Mr. Roberti, thank you.

CHAIRMAN ROBERTI: Fine. Thank you, Senator.

We're concluded for today. We'll stand adjourned until 9:30 tomorrow morning.

(Thereupon the hearing was adjourned at 5:05 p.m.)

--oOo--

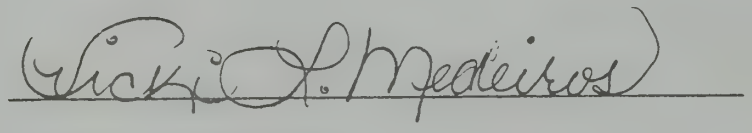
CERTIFICATE OF SHORTHAND REPORTER

I, VICKI L. MEDEIROS, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Vicki L. Medeiros, a Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of February, 1988.



VICKI L. MEDEIROS
Shorthand Reporter